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ABSTRACT

The most revolutionary element of UNICEF's approach to the implementation of the 1989 Convention on the Rights of the Child is the integration of the principles of the Convention into individual countries' programs for children. The convention has impacted UNICEF by broadening it's framework for analyzing the situation of children. This publication documents the experiences of Bolivia, Kenya, and Brazil in the area of child rights, and comments on the ways in which UNICEF, through its tradition of advocacy for children and practical action at the country level, can best support governments in implementing the convention. The case study from Bolivia discusses the implementation of the convention and the promotion of children's rights in Bolivia, and analyzes the convention's impact on programs for children. The Kenyan study focuses on the convention's usefulness in helping set goals for children, and reveals gaps and constraints in national policy on children's issues. The case study from Brazil documents processes that led to constitutional changes, discusses ways of applying legislative reforms, and describes a national movement for the protection of children. A statement on international goals for children in the 1990s is appended. (SM)

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CHILD RIGHTS

THE CONVENTION:
Child rights and UNICEF experience at the country level

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Innocenti Studies

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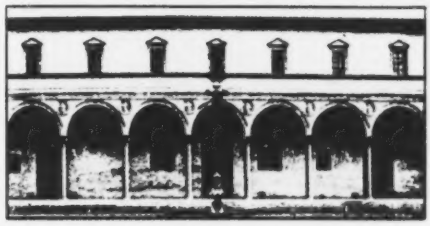

INTERNATIONAL CHILD DEVELOPMENT CENTRE

The UNICEF International Child Development Centre, often referred to as the *Innocenti Centre*, was established in Florence in 1988 to undertake and promote policy analysis and applied research; to provide a forum for international professional exchanges of experience; and to advocate and disseminate ideas and policies towards achieving the goals of child survival, protection and development. On a very selective basis, in areas of programme relevance, the Centre also provides training and capacity strengthening opportunities for UNICEF staff, concerned government officials, and the staff of other institutions with which UNICEF co-operates. The Centre is housed within the *Spedale degli Innocenti*, a foundling hospital that has been serving abandoned or needy children since 1445. Designed by Filippo Brunelleschi, the *Spedale* is one of the outstanding architectural works of the early European Renaissance.

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Patricia Light
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Innocenti Studies

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The authors:

Edward Madinger, Programme Officer, UNICEF, La Paz.
James Mayrides, UNICEF Representative in Bolivia.

Baquer Namazi, former UNICEF Representative in Kenya, currently UNICEF Representative in Egypt.
Geraldine Sicola, Chief, Social Mobilization/Development, UNICEF, Nairobi.

Antonio Carlos Gomes da Costa, former UNICEF National Project Officer, Brasilia, currently Director of the Brazilian Centre for the Child and Adolescent.
Barbara Schmidt-Rahmer, former UNICEF staff member, Brasilia.

PREFACE

THE new United Nations Convention on the Rights of the Child represents for all nations ratifying or acceding to its provisions, as well as for UNICEF, other members of the UN family, and the world's NGO community, not only an historic opportunity for practical action but also an extraordinary challenge not to allow this set of international commitments to go the way of far too many noble declarations and solemn covenants in the global arena of human rights.

As one of the most comprehensive and innovative human rights instruments ever adopted by the international community *and* coming at a time of exceptional opportunities for advancing human rights and more participatory forms of democracy throughout the world, the Convention represents a great deal more – for the United Nations and the human rights movement as well as for the world's children – than the sum of the often too technical-sounding provisions of its 54 articles.

For UNICEF and other UN agencies, it is also highly appropriate that the Convention entered into force in September 1990, the same month that over 70 Presidents and Prime Ministers came together in New York for the first World Summit for Children. UNICEF is committed to cooperating with nations seeking our assistance to help make sure that the goals and specific targets for children (see Appendix), agreed on by the 159 countries represented at the Summit, also strengthen the effective implementation of the Convention.

In many respects, the Plan of Action for implementing the World Summit's "Declaration on the Survival, Protection and Development of Children in the 1990s" is complementary to the concept of the progressive achievement of the provisions of the Convention, especially for low-income developing countries. The Summit Plan of Action and particularly the post-Summit national programmes of action currently being adopted, have the advantage of providing very specific standards and targets, within a given time frame, by which performance can be monitored. This concreteness will be especially useful in the areas of child health, nutrition and basic education, where the provisions of the Convention, as a global and "timeless" instrument, are necessarily quite general.

There are other areas, however, especially concerning the rights of children to protection and participation, where the Convention represents much more of a practical tool for implementation than the Summit Plan of Action or even many of the national-level follow-up programmes. On the complex set of issues relating to "children in difficult circumstances", dealt with especially in the Brazil study in this volume, no specific target was developed for the Summit Plan of Action beyond a general reference to the need to "provide improved protection of children in especially difficult circumstances and tackle the root causes leading to such situations". The Convention, on the other hand, in addition to being linked (through Article 41) to any higher standards in national or other international laws, provides for protection against a wide range of child abuse and exploitative practices. Certain prohibitions are appropriately unqualified such as child prostitution and child pornography and capital punishment for offenders under 18. In the area of exploitative or hazardous employment, or employment interfering with a child's education, Article 32 of the Convention requires States Parties to "provide for appropriate penalties or other sanctions to ensure the effective enforcement" of this provision.

The Convention therefore complements and reinforces the follow-up to the World Summit in a number of respects, including the prospect of some degree of legal enforceability and the existence of an accepted mechanism within the United Nations for monitoring progress in ratifying countries.

Probably the most powerful way UNICEF can act to help ensure both fulfillment of the promise of the World Summit and effective implementation of the Convention is by

steadfast insistence on linking these commitments to our regular country programming process. An important initial step is broadening the terms of the (generally) joint Government-UNICEF "situation analysis" of the conditions of children (and often of women) – which provides the critical baseline against which subsequent progress can be measured. The process during the last half of the 1980s which led to the adoption of the Convention has already resulted in a broadening of the situation analyses and programme development in many countries. This process has led UNICEF into some important new fields of cooperation while we have also sharpened our involvement in more traditional areas of programme support.

Some of these newer areas of cooperation, although "legitimized" by the Convention, are inevitably more controversial and politically sensitive than many actions in fields such as child health and nutrition. Indeed, not all countries nor all UNICEF managers would necessarily want a relatively activist stance on some of the issues documented to the extent that we find in the three cases reported in this *Innocenti Study*. (It is not common to find in earlier country-specific UNICEF documents references to child domestic workers being physically and sexually abused by their employers, to laws being used as tools of control and repression, or to the weakness of governmental infrastructures to protect children's rights.) And it will come as no surprise to experienced human rights workers that some aspects of actions taken are best not publicized. With the active support of John Donohue, James Mayrides and Baquer Namazi – the UNICEF Representatives in Brazil, Bolivia and Kenya, respectively, during the preparation of these three country studies – we have tried to report on UNICEF's role in initiating this new phase of post-Convention cooperation as thoroughly as possible and prudent within the obvious constraints.

This *Innocenti Study* also serves as the initiation of a new sub-series on child rights as a part of our ongoing programme in this area at the UNICEF International Child Development Centre. The first two numbers in our other sub-series (dealing with "the urban child in difficult circumstances") are also of direct relevance to the rights of children to protection and development. Readers especially interested in the difficult but now more promising situation of working and street children in Brazil may wish to review one of the two earlier *Innocenti Studies* entitled: "Brazil: The Fight for Childhood in the City" by Anthony Swift.

A publication of this nature calls on the skills, time, talents and contributions of many people, more than can be cited here. I am especially indebted to our Centre's former Children's Rights Senior Programme Officer, Bilge Ögün, for initially coordinating work on the case studies and politely pressing for quality and relevance. A special word of thanks also to Marjorie Newman-Black, Philip Alston and Patricia Light for their assistance in editing and revising the manuscript. Earlier versions were reviewed by the UNICEF Consultative Group on Child Rights* whose collaboration in this entire process is much appreciated.

James R. Himes
Director, UNICEF International Child Development Centre

* Members of the Consultative Group: Teresa Albanez, Dan Brooks, Anwarul Chowdhury, James R. Himes, Mehr Khan, Keshab Mathema, Baquer Namazi, Hans Narula, Richard Reid and Victor Soler-Sala

INTRODUCTION

FOLLOWING the adoption of the Convention on the Rights of the Child in 1989 and the UNICEF Executive Board's decision (1989/10) that the Secretariat should report in 1991 on "measures it has taken to promote implementation of the provisions of the Convention", UNICEF offices have been examining the implications of this Convention for the work of the organization. They are attempting to define, in terms of practical action, what impact the Convention is likely to have on UNICEF programmes of cooperation around the world, and how the organization should respond, substantively, to the provisions of Article 45 of the Convention, which states *inter alia*:

"(a) The specialized agencies, UNICEF and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, UNICEF and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, UNICEF and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, UNICEF and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance along with the Committee's observations and suggestions, if any, on these requests or indications.

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child."

In addressing the regular session of the UNICEF Executive Board in May 1991, Mr. Jan Martenson, United Nations Under-Secretary-General for Human Rights, affirmed that: ". . . respect for human rights, and the rights of children in particular, must become an integral part of development planning, implementation and evaluation. . . . The most revolutionary element of UNICEF's approach to the implementation of the Convention . . . is the integration of the principles of the Convention into country programmes and analyses. For the first time the United Nations brings fully to bear on its practical activities, international standards of human dignity."

Some UNICEF offices already have considerable experience in working with concepts of children's rights, or have used their advocacy for ratification of the Convention as the cornerstone of longer-term efforts to build effective strategies for supporting the implementation of the Convention through the UNICEF programming process.

As a contribution to this evolving process, the UNICEF International Child Development Centre in Florence asked UNICEF offices in eight countries – Bolivia, Brazil, Burkina Faso, Egypt, Kenya, Mozambique, Sri Lanka, and Thailand–to document their experiences and to comment on ways in which UNICEF, through its tradition of advocacy for children and practical action at the country level, can best support governments in implementing the Convention.

This publication presents the studies prepared by the UNICEF offices in Bolivia, Brazil and Kenya, where recent efforts to promote respect for children's rights, or to plan for the implementation of the Convention, are already well developed. Through this introduction, the experiences of all eight countries are also synthesized.

Goals for children in the 1990s

There are significant differences in the social, economic and cultural situations of the countries included in this exercise, but the findings of all the case studies allowed some general statements to be made about the role of UNICEF in the implementation of the Convention, and about the significance of the Convention in conferring legitimacy on the development goals for children in the 1990s. The case studies also highlighted the conceptual differences between the timeless and universal character of the legally-binding Convention, and the time-bound and specific nature of the goals for children in the 1990s.

In developing strategies to support the implementation of the Convention, these goals, adopted by the UNICEF Executive Board and endorsed at

Correspondence between goals for children in the 1990s and provisions of the Convention on the Rights of the Child

The articles of the Convention on the Rights of the Child as listed below contain provisions which correspond to specific goals for children in the 1990s.

Major Goals for Children in the 1990s*		Rights of the Child as embodied in the Convention	Relevant article(s) of theConvention
1	IMR/U5MR (Infant mortality rate/ Under-five mortality rate) reduction	Right to life Right to health	6 24
2	MMR (Maternal mortality rate) reduction	Right to health	24.2(d) 24.2(f)
3	Malnutrition	Right to health	24.2(c)
4	Universal access to water and environmental sanitation	Right to health and standard of living	24.2(c),(e) 27
5	Universal access to basic education and completion of primary education	Right to education	28,29,32
6	Reduction of adult illiteracy	Right to education	24.2(e),(f) 28
7	Improved protection of children in especially difficult circumstances	Right to protection from:	
		• violence, abuse, neglect	19
		• economic exploitation	32
		• drug abuse	33
		• sexual exploitation	34
		• sale,trafficking and abduction	35
		• all other forms of exploitation	36
		• torture, death penalty, life imprisonment and deprivation of liberty	37
		Right to special protection if:	
		• refugee or asylum-seeker	22
		• disabled	23
		• affected by war	38
		Right to special protection and assistance if deprived of family environment	20,21
		Right to periodic review if placed for the purpose of care, protection or treatment	25
		Right to treatment for recovery and reintegration of victims of abuse or exploitation	39
		Right to be treated with dignity and worth if in conflict with the law	40

* Refer to Appendix

the World Summit for Children, provide an operational framework which governments, UNICEF and other agencies can use to set targets and to measure achievements in the process of transforming the principles of the Convention into practical action for children. To highlight the complementarity between the goals for children in the 1990s and the principles of the Convention, the UNICEF Programme Division and the Division of Public Affairs have developed a matrix, establishing the correlation between these time-bound goals and the provisions of the Convention *(see above)*.

The overlap between monitoring the development goals for children in the 1990s and monitoring the implementation of the Convention's provisions has been discussed in several case studies, within an internal UNICEF task force on programme monitoring and at a meeting of Regional

Planning Officers organized by the UNICEF Programme Division.

UNICEF is not a monitoring body for the Convention, but it can make a contribution to the process by helping governments to strengthen their capacity for collecting accurate data on the situation of children. In this way, the process of assessing progress towards the goals for the decade will support governments in their obligation to monitor their compliance with the Convention, and will assist them in reporting in a more detailed and accurate manner to the Committee on the Rights of the Child.

Conclusions from the case studies

The case studies presented here confirm that the Convention's most fundamental impact on UNICEF is that it broadens the framework for analysing the situation of children and it stimulates new thinking about effective strategies for fulfilling the UNICEF mandate. When it serves as the underpinning of the UNICEF programming process, the Convention becomes a powerful tool for advocacy with policy makers, in that it transforms charity-oriented approaches to providing services for children into national obligations to give meaning to their rights.

Several countries involved in the ICDC exercise reported that discussions on the implementation of the Convention provided an opening for dialogue with governments on a wide range of issues, such as: the need to rethink national development priorities; the allocation of resources between and within sectors; legal reforms and consequent policy changes to ensure that laws are applied; the importance of protecting children from the worst consequences of armed conflicts and of guaranteeing their absolute right to basic services; the importance of developing national and community-level capacities to monitor children's well-being and the enjoyment of their rights.

The Convention's most fundamental impact on UNICEF is that it broadens the framework for analysing the situation of children

The fact that children's rights have now been codified in an international Convention, which is legally binding in the case of the great majority of countries with which UNICEF is working, has further implications. Governments, UNICEF and others working to achieve human development goals now have an even greater responsibility to

Thailand

ensure that children are protected from preventible diseases and malnutrition, that they have access to basic education, that they are protected from exploitation and from the effects of wars and natural disasters, and that they are enabled to participate in the life of their communities.

The case studies suggested that even in countries that have yet to become States Parties to the Convention, its principles are providing governmental and non-governmental bodies with a comprehensive new framework for problem analysis and for developing programmes for children. In Mozambique and Thailand, where ratification is still pending at the time of writing, UNICEF experiences illustrate this point. The Government of Mozambique has created a National Commission on Child Rights to review the legislation in light of the Convention, and to develop a plan for its implementation. The National Youth Bureau of Thailand has established a committee, including non-governmental groups, to collect data and report on the status of children in Thailand, to develop materials for promoting the Convention among several audiences, including children, and to prepare position papers for law reform.

Several case studies made reference to the new vision of children that is developing as a result of the Convention's holistic and integrated approach to defining their rights. The perception of children as passive and vulnerable beneficiaries of welfare services is giving way to the recognition that they are equal and vital members of families and com-

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munities. Except for the very youngest among them, children have opinions to express and contributions to make to community and family life. Many case studies highlighted the importance of enabling children to play their part by respecting their right to participate in the decisions affecting their lives, and underscored the importance of ensuring that activities to promote children's rights involve them in ways that are more than symbolic.

The Convention transforms charity-oriented approaches to providing services for children into national obligations to give meaning to their rights

The Bolivian study noted that, in some ways, the Convention has simplified the UNICEF programming process since it is a clear guide to standards and a framework for decision-making. The entry into force of the Convention has prompted the UNICEF Executive Board to stress the importance of using the Convention as a broad framework for programming. In response to the Executive Board's instruction contained in decision 1991/9, the UNICEF Programme Division is preparing: "Revised guidelines for country situation analyses . . . to ensure that the standards set by the Convention and the range of issues it raises are systematically incorporated into the scope of these (situation) analyses".

Mozambique

Strengthening the UNICEF mission

The case studies demonstrated how the Convention strengthens the UNICEF mission, by providing an added source of legitimacy to reinforce the organization's mandate to raise difficult issues with governments, for instance, when children are at risk or "in especially difficult circumstances". The case studies also pointed out, however, how important it is for UNICEF to build strong partnerships with a wide range of national and international organizations, and to situate its actions to support implementation of the Convention within the framework of United Nations inter-agency cooperation, particularly when it may be more appropriate for others to take the lead.

The importance of cooperation with other agencies and organizations becomes even more significant when such bodies have a formal mandate to monitor international instruments which protect children's rights. Among the human rights and humanitarian treaties with which UNICEF staff will need to become more familiar are: the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, monitored by the International Committee of the Red Cross; the Convention and Protocol relating to the Status of Refugees, monitored by the United Nations High Commissioner for Refugees; the Minimum Age Convention No. 138 of 1973, monitored by the International Labour Organisation; the Convention Against Discrimination in Education of 1960, monitored by the United Nations Educational, Scientific and Cultural Organization. Other non-treaty-based standards are also important in this regard. They include, in particular, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the 1986 Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally, both of which establish internationally accepted principles but are not legally binding instruments.

This list is not exhaustive nor is it meant to suggest that UNICEF should be operational in all the areas covered by these texts. However, in adopting a holistic approach to analysing the situation of children, these instruments provide important guidance on policy options which UNICEF may have to consider in the programming process.

The increasing centrality of issues relating to the well-being of children, within the context of mainstream political debate, and the growing attention that officials at the highest levels of government give to these issues are trends which the case studies confirmed. However, UNICEF offices have underlined the importance of developing the capacity of UNICEF staff to manage the changing

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Sri Lanka

environment in which they work, since new skills and approaches are required. The case studies from Bolivia, Brazil and Kenya demonstrate how this process can be managed, without it falling victim to partisan considerations, by situating these activities in the context of implementing the Convention. Its legal status and the unanimity surrounding its adoption in the General Assembly strengthen the hand of organizations and individuals acting in good faith to represent the interests of children.

The case studies dispelled the notion that the promotion of children's rights and efforts to support the implementation of the Convention are "add-ons" to mainstream UNICEF activities. The studies from Bolivia, Brazil and Kenya show how the Convention's concepts permeate all aspects of UNICEF programming, but they make the point that its principles can only be effectively applied when they are integrated into the country situation analysis and are applied through appropriate policy and programmatic responses to childrens' needs. Events to promote public awareness of the Convention are of little lasting value if they are not part of a larger, multi-faceted and sustained effort to promote understanding of the issues which the Convention addresses. The following chapters in this publication provide detailed descriptions of nationally significant events in Bolivia, Brazil and Kenya which unleashed public support for efforts to address specific children's rights issues, and which gave birth to national alliances that are working to bring about lasting reforms.

The experiences of other UNICEF offices demonstrate how important it is for UNICEF to look for opportunities for opening the dialogue with governments on complex, hidden, or forgotten problems affecting children's rights. The study from Brazil refers to this as learning to occupy the political space created when various changes take place in a country.

Because the organization enjoys credibility based on its proven capacity to respond in tangible ways to the needs of children, it is also able to act as an advocate for the application of the Convention. For example, the UNICEF office in Cairo described how successful programmes to achieve universal child immunization, and to improve children's health, enabled its staff to stimulate debate among Islamic scholars on the place of children in the teachings of the Koran and in Hadith texts. This led to the publication of an authoritative work entitled *Child Care In Islam* which, in turn, provided a framework for discussing the application of the Convention in Islamic societies.

The promotion of children's rights and support for the Convention are not "add-ons" to mainstream UNICEF activities

Several case studies highlighted the normative value of law in setting standards for developing comprehensive social policies. This has been a long-standing tradition in Sri Lanka where the

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government's efforts to promote human development have often been stimulated by the process of legal reform. However, the case studies from Burkina Faso, Mozambique, Kenya, Sri Lanka and Thailand also underscored the difficulties inherent in trying to apply modern legal principles in communities where behaviour is governed largely by customary law. Situations where certain practices which are inimical to children are both socially acceptable and, as in the case of child labour, actually contribute to the national economy, are equally difficult to address. In these circumstances,

There are difficulties in trying to apply modern legal principles in communities where behaviour is governed by customary law

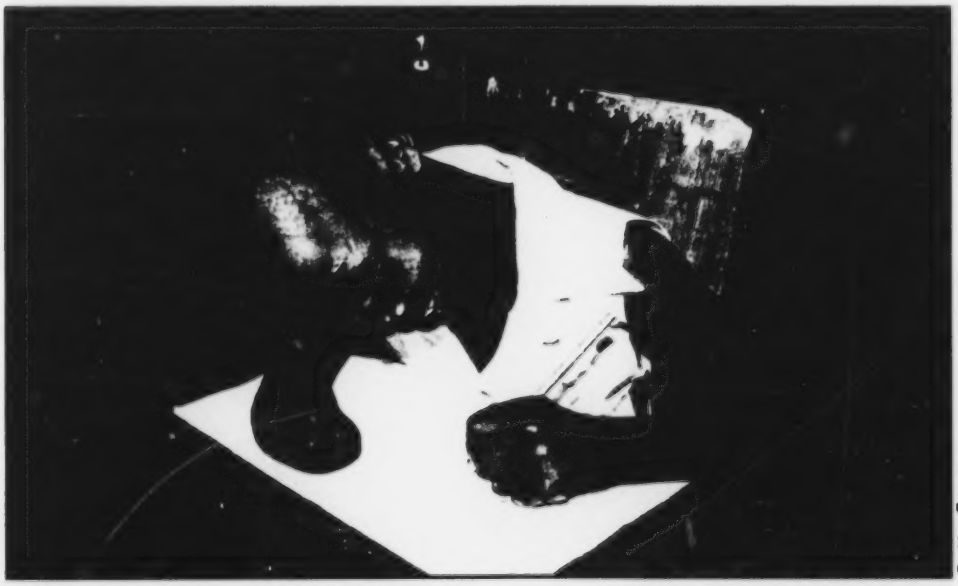
"conscientization" is as critical as efforts to apply the letter of the law, and in promoting children's rights, UNICEF must study carefully the role and influence of customary law. Its guardians must also participate in discussions on change and their support for the application of the Convention is an important prerequisite for success.

All the case studies underscored the importance of training. UNICEF staff, government personnel responsible for providing services and for protecting children, non-governmental groups, teachers, and parents all need to understand the principles of the Convention before they can apply them, in fulfilling their respective obligations to children. Several UNICEF offices have commented on the degree of ignorance and the lack of respect for children among many of those who administer programmes for child protection and development. In response to this need to promote understanding of the Convention, the UNICEF Training Section is preparing the first staff training package on children's rights. Many UNICEF offices have already initiated training exercises with local partners.

The multiple roles of advocacy

All the case studies stressed the importance of advocacy and public information as integral components of the programming process, and as essential elements of any sustainable effort to implement the Convention. The considerable expertise that UNICEF has developed and the "demand approach" that it has taken to promoting child survival and development in the last decade have served as the cornerstone of current efforts to promote children's rights. The case studies included here provide excellent examples of how to work with governments, non-governmental groups and the mass media to create demand for programmes to protect children's rights.

Several case studies stressed the importance of linking children's rights to women's rights. There is agreement that, in its analysis of the situation of children, UNICEF must examine the role and status of women, the social and economic problems facing them and, particularly, the gender disparities between boys and girls. The Bolivian case study shows how the campaign to generate politi-



Burkina Faso

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cal and public support for the ratification of the Convention on the Rights of the Child, also led to Bolivia's ratification of the Convention Against All Forms of Discrimination Against Women.

The case studies from Burkina Faso and Mozambique posed the question: how can the least developed countries, facing further economic decline and, in Mozambique's case, armed conflict, adhere to the Convention when they have little hope of attaining the standards it sets? Many other UNICEF offices will confront this issue when they raise implementation questions with governments. In both countries, the harsh realities have not prevented the governments from reviewing their legislation in light of the Convention, setting goals for moving at a sustainable pace to address the most pressing needs of children and working for the elimination of those problems that inflict the greatest suffering on children and which violate their rights. For many countries in these circumstances, this may well be the most appropriate approach to implementing the Convention.

UNICEF is one of many organizations supporting the least developed countries in this process, but it has a special obligation to act as their children's advocate on the international scene, in efforts to marshall an increased share of international development aid for human development, and in giving priority to children.

Convention-related activities

UNICEF and other United Nations agencies can help the least developed countries to attract support from international sources to carry out the following Convention-related activities: reviews of legislation and studies on effective ways of promoting universally upheld principles of justice and equity among traditional groups in society; training in the principles of the Convention for those responsible for children's well-being; and help in monitoring the situation of children, with the understanding that the Convention is a tool for setting national development goals which carries with it an obligation to report to the international community.

The UNICEF experience in Egypt demonstrates how advocacy for the Convention during its drafting phase generated the political will to examine disparities in the opportunities and services available to children and to focus attention on situations which violate their rights. The case study argued that advocacy based on accurate data is an effective way of shedding new light on problems that may be hidden from view. It points out, however, that this is a process-intensive exercise, which may not have readily apparent financial implications for the UNICEF country programme, but is costly in terms of staff time. It also makes the point that sometimes the most dramatic and important breakthroughs occur when UNICEF has convinced others to act. Visibility and direct programme action is not always the most effective strategy.

The reports from Sri Lanka and Thailand highlighted the role of UNICEF in the implementation of the Convention in countries where social and economic disparity and marginalization pose the greatest threat to children's rights. In the case of Sri Lanka, intermittent civil strife in recent years has

Advocacy based on accurate data is an effective way of shedding new light on problems that may be hidden from view

battered the country's democratic traditions and has engendered social deterioration, putting many children at risk.

UNICEF cooperation in these countries has moved beyond the provision of basic services and the immediate goals of survival and development, to address protection, quality of life issues and participation rights for those children who are marginalized in spite of their countries' significant social and economic progress. This is particularly true of Thailand where the country's impressive economic performance has veiled the harsh realities facing large numbers of abandoned, exploited and abused children. Although Thailand has yet to ratify the Convention, it is already serving as a framework for governmental and non-governmental analysis of the problems facing children.

UNICEF offices in both Sri Lanka and Thailand are working to develop broad-based national movements, including parliamentarians, religious leaders, members of the mass media, the business sector and community-based NGOs, to work towards the implementation of the Convention's principles. The importance of data gathering on the situation of children at the community level is a priority in both countries. UNICEF offices are promoting community monitoring mechanisms as tools for community groups to use in setting goals for themselves and to strive for greater priority for their children, based on a deep understanding of their needs.

Specific case study lessons

The case study from Bolivia discusses the ratification and implementation of the Convention, and the promotion of childrens's rights as a major part of advocacy for children in Bolivia. It provides a clear analysis of the Convention's impact on the programming process, particularly as it affects the

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situation analysis and the monitoring of development goals for children.

The Kenyan study focuses on the Convention's usefulness in helping the Government, UNICEF and non-governmental groups to set goals for children, within the framework of the National Development Plan. By undertaking an analysis of the provisions of the Convention and comparing them to Kenyan legislation, gaps and constraints in the law and in national policies became evident, and appropriate programmatic responses can be more easily defined.

The final study in this volume, Brazil, documents the reform process that led to changes in the constitution and in the body of legislation on children. It discusses the ways of applying constitutional and legislative reforms through policy and institutional changes, which in turn translate into direct benefits for children. It describes how a permanent national movement for the protection of children grew out of grassroots initiatives to advocate for the protection of street children faced with violence and abuse. It also outlines the UNICEF role in this process and summarizes the lessons learnt from this exercise, most notably, that UNICEF can address controversial and politically sensitive issues by basing its approach on an informed assessment of the local political situation. Timing, partnerships with non-governmental groups and alertness to strategic political openings enabled the UNICEF office in Brazil to operate within a volatile political context, without compromising the organization's non-partisan stance. The case of Brazil shows how important the role of UNICEF continues to be in a country undergoing rapid industrialization, and provides an example of the evolving nature of UNICEF cooperation.

Implementing the Convention on the Rights of the Child will not be easy. It will require the political will of governments and broad-based public participation, including children, both at national and community levels. The validity of the Convention on the Rights of the Child as a guide to standards and a framework for action is timeless. The implementation of its principles will surely lead all countries towards the attainment of human development goals, but many governments will need long-term support from the international community in order to meet their obligations. UNICEF is but one player in the implementation process, albeit an important one, and the experiences documented by UNICEF offices indicate that there is no single model for the organization's cooperation with governments. Finding the strategic entry point is often the greatest challenge.

Marjorie Newman-Black
UNICEF, New York

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BOLIVIA: PROGRAMMING FOR CHILDREN'S RIGHTS

BY EDWARD MADINGER AND JAMES MAYRIDES

MORE than thirty years ago, in 1959, the General Assembly of the United Nations adopted the Declaration of the Rights of the Child. In Bolivia, four years earlier, the government of Dr. Victor Paz Estenssoro, by Supreme Decree number 04017, had declared the Rights of the Bolivian Child. Ahead of the times in a number of respects, the decree included the rights to survival, education and development, as well as to special protection, including the "right not to be materially or morally mistreated by his family or any member of the community".[1]

Thus, children in Bolivia, and in particular the issue of their rights, have long been on the nation's political agenda. Yet the translation of good intentions, as first expressed by the Government in 1955, into the reality of children enjoying their rights, has been, and continues to be, a difficult process. The reasons for this are numerous and complex, but they are inherently linked to the country's basic social and economic situation.

Bolivia is among the poorest countries in the western hemisphere, with perhaps the highest under-five mortality rate in the region. The country has undergone several periods of political instability during which successive governments have given different weight and interpretations to the principles of children's rights.

The affirmation of children's rights, however, whether in the general terms set forth in the Declaration of the Rights of the Bolivian Child, in the specific provisions of national legislation or in the global terms of the new United Nations Convention on the Rights of the Child, establishes a framework within which all parties interested in promoting children's well-being may work. The concept of children's rights provides a common language and forms the basis of an active rather than a reactive approach to children's issues.

When children's rights are codified as law, moreover, the State goes beyond its moral duty to children and assumes a binding obligation for ensuring their well-being and protection. In becoming a State Party to the Convention, a country agrees to refrain from acts which infringe upon its children's rights, commits itself to pursue the implementation of the Convention's principles, and submits itself to the reporting and monitoring obligations set forth.

The historical background

The Government of Bolivia first undertook these sorts of commitments in 1955. That period of Bolivian history was one of great social change. The government of the National Revolutionary Movement, which consolidated its position with the election of Victor Paz Estenssoro in 1951, had nationalized substantial mining interests and instituted sweeping agrarian reforms. Civil rights, including the right to vote, were implemented for indigenous people and women's right to education was explicitly recognized. It was in this context that the Government decided to codify children's rights, in recognition of their particular needs.

Bolivia's concern for children may have specific historical roots: the Chaco War, fought against Paraguay from 1932 to 1935 (the final treaty was signed in 1938), claimed some 100,000 lives. In both countries, tens of thousands of children were orphaned or found themselves with widowed mothers. Bolivia recognized these children's special needs and established the National Direction for Minors and the Protection of Children, as part of what was then the Ministry of Labour and Social Security. The Declaration of the Rights of the Bolivian Child cites that institution, and assigns it specific responsibilities for the protection of children under the law.

Respect for children's rights in Bolivia has varied greatly since the 1955 Declaration. Their rights were often blatantly violated during periods of political instability. Cruel forms of punishment were not uncommon, and children could be arbitrarily institutionalized if they caused "problems".

With the return to democracy in the mid-1980s, there has been renewed respect for human rights in general and for children's rights in particular. In August 1989, President Jaime Paz Zamora was inaugurated, and within three months of assuming office he launched the National Plan for Child Survival and Development and Maternal Health. The Plan defines the country's health strategy for the four-year term of government, and it embodies many of the goals and strategies advocated by

[1] *An unofficial English translation of this decree is available from UNICEF's office in La Paz.*

UNICEF (including the reduction of infant and maternal mortality by half). In October 1989, the Government acceded to the United Nations Convention Against All Forms of Discrimination Against Women, and institutions outside the Government also declared support for women's and children's issues. The Bolivian Central Labour Union, for example, declared 1990 the "Year of Mobilization for the Rights of the Child".

The most recent and encouraging indication that the well-being of children is an issue of political importance in Bolivia is the country's rapid ratification of the Convention on the Rights of the Child. The Convention was approved unanimously by the House of Deputies in February 1990 and by the Senate that April. President Paz Zamora signed the bill into law on 24 May 1990, and the Instrument of Ratification was deposited with the UN Office of Legal Affairs on 26 June 1990, making Bolivia the eighth State to ratify this Convention.

With the return to democracy there is more respect for human rights in general and for children's rights in particular.

Bolivia's efforts to transform the ideals of children's rights into practical action predates this ratification of the Convention. The application of the 1955 Declaration of the Rights of the Bolivian Child presented certain legal problems. The decree charged the Minister of Labour and Social Security with responsibility for its implementation, yet certain of the rights accorded to the child fell outside the normal functions of that Ministry (for example, the right to be born in conditions of maximum hygiene and medical support). Until 1966, various juridical and legal dispositions designed to protect children were found among the civil, criminal and family codes and, in general terms, in the Constitution of State. Other regulations were issued by Supreme Decree or by Ministerial Resolution.

A first Code on Children and Youth in 1966 established special tribunals for minors and a National Council on Children and Youth. In 1972, a much broader code was enacted and was considered at the time to be among the most advanced in Latin America. However, the realization that the current statutes do not adequately reflect the actual social situation, have convinced the leadership that a new legal Code on Children and Youth should be enacted. This is now well underway.

During the 1989–1990 legislative term, the Senate and the House of Deputies established a Commission on Children and Youth *(Comisión del Menor)*, responsible for drafting comprehensive legislation to protect and ensure the rights of children in Bolivia. The UNICEF-supported country programme, developed before the Convention was adopted by the General Assembly in November 1989, foresaw the need for improved legislation to protect children in Bolivia and made provisions to support this process.

The gaps between law and reality

The Convention on the Rights of the Child provides a special vehicle for advocacy on behalf of children. Its legitimacy is derived from the international consensus which led to its adoption, and it offers organizations like UNICEF a strengthened and continuous mandate for negotiating better con-

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ditions for children.

UNICEF and others working in Bolivia to protect children know the difficulties in enforcing the law. A very specific example is a national law that all salt produced for domestic human consumption must be iodated to a specified level. Salt iodation certainly protects children from ill-health, but the capacity to enforce this law does not exist in many areas. Similarly, national law provides for free primary education but schools and teachers are in short supply, especially in rural areas.

The gap between the law and reality is wide in almost all other domains. Article 6 of the Convention provides that ". . .every child has the inherent right to life. . ." but in Bolivia, the infant mortality rate is estimated at 102 per thousand live births and the under-five mortality rate at 142 per thousand. Article 28 recognizes the right to education, but some 471,000 children of primary school age are deprived of schooling (88 per cent of whom live in rural areas). Article 27 recognizes the right to an adequate standard of living, but per capita gross national product (GNP) is now $580, and there are thousands of families living in absolute poverty.

Children's right to protection from exploitation and abuse is partially respected, but the declining economic situation of the country and the poverty of many families have forced young children to leave school and to take to the streets, in efforts to enter the informal economic sector. The most recent information available indicates that there are 280,000 working children, 8,000 institutionalized children, and 2,500 street children. The great majority of these children in "especially difficult circumstances" work for the survival of their families and of themselves.

The right of children to participate in the life of their communities is generally respected in the present context of democracy, but many indigenous children are still marginalized and their participation in society requires special attention. Article 30 of the Convention provides for the right of such children to enjoy their own culture and to practise their own religion and language. A barrier to this has been the educational system which, traditionally, has used Spanish as the language of instruction, even for the great number of children whose mother tongue is Aymara, Quechua or Guarani. The Ministry of Education (with UNICEF support) is in the pilot phase of an intercultural, multi-lingual primary education project which permits such children to learn in their first language as well as in Spanish.

Reporting on implementation

The Convention, of course, calls for more than a cursory examination of how children enjoy their rights. According to Article 44, within two years of the entry into force of the Convention, Bolivia must report to the Committee on the Rights of the Child on the progress the country has made towards fulfilling its obligations. The timing of this report will coincide with the preparation of the next UNICEF-supported country programme, particularly the situation analysis phase.

Progress in implementing the principles of the Convention is a matter of interpretation and will undoubtedly be the subject of considerable debate. It may be argued, for example, that only in those countries where preventible child death has been virtually eliminated (as in the Scandinavian countries), can this obligation be said to be met. The concept of preventible death, however, is relative. Child death that is preventible in northern Europe is not necessarily preventible in the context of Bolivia's poverty. Since poverty is certainly a basic cause of young child death and seems to be an all too enduring condition in many parts of the world, children whose death is due to poverty have little hope of enjoying their right to life.

Nevertheless, there is ample room for preventing child death in Bolivia, even with its severe poverty. UNICEF strategies for child survival and development, through relatively low-cost, high-impact interventions, attempt to reduce the very high infant and child mortality rates in countries like Bolivia. To some extent, the immediate causes of young child death in Bolivia (diarrhoeal dehydration, acute respiratory infections and perinatal complications) can be rapidly removed even during the slower process of poverty eradication.

In becoming a State Party to the Convention, Bolivia's obligation is to act in good faith and to make progress within the means available. The interpretation of progress will be greatly facilitated when measurable goals and targets are established by the Government in cooperation with UNICEF.

Children's right to protection from exploitation is partially respected, but poverty has forced many to take to the streets

It is probably easier to set quantifiable goals with respect to the rights to survival, development and even protection, but participation is more difficult to measure. Yet, if UNICEF is to integrate the concept of children's rights into its regular programming, all rights enshrined in the Convention must be taken into account. This may not mean that all the principles of the Convention will receive equal treatment in developing UNICEF's programme cooperation in Bolivia, but the interdependent

and indivisible nature of these principles must be understood and acknowledged.

UNICEF and the promotion of Children's Rights

The competition for policy makers' attention to various issues of national importance is always fierce. Over the years, UNICEF has worked to ensure that children in Bolivia are given a prominent place on the national agenda, but the situation in Bolivia over the past decade has not been conducive to giving children their due.

The country is still recovering slowly from the socio-economic crisis of the 1980s. At the beginning of the 1990s, Bolivia carried an external debt of some $4.1 billion, and prices for its principal exports, tin and natural gas, collapsed in the middle of the last decade. Unemployment is presently estimated at 11 per cent, due in large measure to the closure of many state-operated mining facilities as part of the adjustment programme. The hyperinflation of the mid-1980s (exceeding 11,700 per cent in 1986 according to the National Statistics Institute) is under control now, but the social costs have been high. In short, solving the economic crisis was the government's first priority.

The increased importance of coca production to the economy is also a complex issue, sensitive both internationally and in Bolivia. Coca is produced legally for local consumption in the non-narcotic form of a tea, but the illegal production, processing and exportation of coca paste for narcotics has become a substantial source of income and employment. There is disagreement as to the prevalence of drug use among Bolivian youth, but monitoring this situation will be important.

Traditional beliefs put concepts of Western medicine, such as preventive health care, at odds with the indigenous world view

The effects of the economic crisis are aggravated by Bolivia's difficult terrain. The topography of the land and the dispersed nature of the rural population make health and education services difficult to deliver. The ethnic and linguistic diversity of the population make public education complex and costly, and traditional beliefs put concepts of Western medicine, such as preventive health care, at odds with the indigenous world view.

These constraints are offset, to some extent, by the Bolivian cultural tradition of cooperation, on which community participation for child survival can be based. The tradition has been partly eroded as rural-urban migration takes place, particularly among mining families who have lost their livelihood. Yet, even the relocated communities show a degree of cohesiveness.

Building partnerships

Of primary importance for promoting the well-being of children in Bolivia is the country's continuing political stability and the governing party's historical concern for social issues. The present political context has allowed partnerships to develop across a broad ideological spectrum, in efforts to promote children's rights. The process leading to the ratification of the Convention was not an exercise in partisan politics.

A second favourable condition is the existence of a large number of grassroots organizations, already working in remote areas with dispersed communities. Non-governmental organizations, both national and international, religious and secular, have become important partners for UNICEF.

While UNICEF works with many partners, their institutional capacities vary and, unfortunately, the governmental infrastructure must be characterized as weak. On the other hand, the Roman Catholic Church is a strong institution with widespread influence. The Church's activities for social development are implemented through CARITAS and the National Pastoral Service. The Bolivian Central Labour Union has substantial social and political influence. They have organized a number of popular health committees, which provide health care in areas (mainly urban) where government or other services are not available, and where the labour syndicate has strong influence.

There are some 800 non-governmental organizations operating in the country, in both urban and rural areas. Their competence and influence vary greatly, as do their motives: some are overtly political in nature, some zealously religious, some simply self-serving, some completely honourable.

The communications media are well established and their coverage is widespread throughout the country. Major cities have several television stations; there are 55 in total, the majority of which are affiliated to national networks. Nine major daily newspapers are published in Spanish, with a circulation of approximately 90,000, mainly serving urban markets. Rural Bolivia is served primarily by radio. There are 180 public and private stations broadcasting in Spanish and in indigenous languages, half of which reach rural areas.

UNICEF has worked with all these partners in promoting concern for children's rights. Perhaps the most important single event in this effort was the meeting held in La Paz in September 1989 to

analyse the draft text of the Convention on the Rights of the Child in the Bolivian context. The meeting was organized by the Coordinator of Pro-Child Organizations of the Department of La Paz, and was sponsored by the Christian Children's Fund, UNICEF, and the Bank of Santa Cruz de la Sierra (a private banking concern). The Vice-President of the Republic chaired the two-day meeting, which was attended by some 50 non-governmental organizations, both national and international, religious and secular. Senior members of both houses of the national parliament participated, as did officials of the ministries of health, education, information and foreign affairs. The armed forces and the national police were represented. The meeting reached consensus on numerous aspects of the draft Convention, and spurred Bolivia's early ratification of the Convention following its adoption.

Raising awareness through the media

An important part of promoting concern for children's rights is raising awareness about global and national goals and targets. The annual launching of the UNICEF *State of the World's Children* report is an opportunity afforded to every UNICEF office. It has become a yearly media event in La Paz, with the participation of government ministers, parliamentarians, religious, labour and other non-governmental personalities. Press coverage has been extensive in recent years, due in part to the effort made by the UNICEF office to present the situation of the Bolivian child in the context of the regional and global issues that the report raises.

Other special events have also helped to focus the attention of UNICEF partners on children's issues. During the national presidential campaign of 1989, and just before the elections, UNICEF sponsored a colloquium on children's issues. Presidential candidates and party leaders were invited to present their positions on the situation of children in the country and their proposed solutions. Many of the issues raised related to the principles outlined in the Convention. Prior to the colloquium, the party then in power objected to the inclusion of opposition groups in the event. UNICEF's argument that children's rights transcend party politics and partisan concerns overcame the governing party's reticence. Radio, television and print media coverage of the colloquium was extensive.

25,000 children signed a petition requesting the legislature to set up a commission on children and youth.

Throughout the national electoral campaign, UNICEF and other groups lobbied for children's rights as a substantial issue. Late in 1988, a group of non-governmental organizations led by the Catholic Church (and supported by UNICEF), began a campaign to petition the executive and legis-

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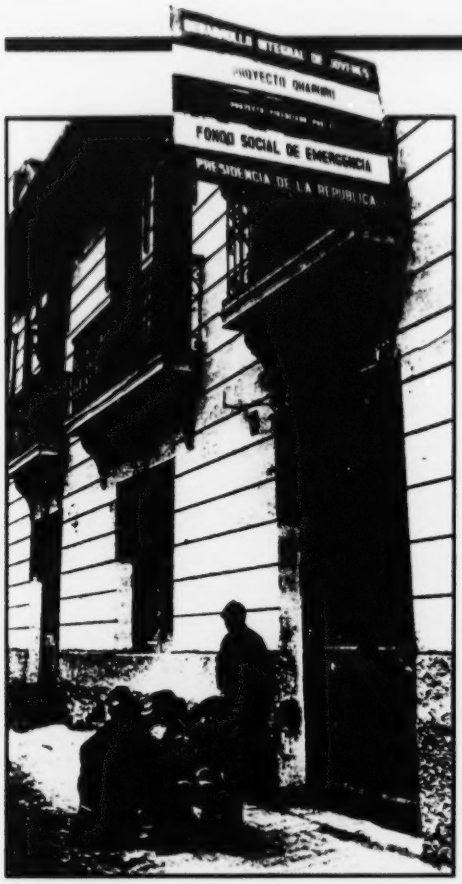

lative branches to give priority attention to the needs of children. More than 25,000 children signed a petition requesting the legislature to establish a commission on children and youth. The various political parties competing for the presidency and for seats in the legislature noted the petition. The commission was established for the 1989–1990 legislative session.

In August 1989, UNICEF joined other organizations in preparing the first Andean Labour Congress on Child Health, held in Cochabamba. Representatives from the central labour unions of Bolivia, Colombia, Ecuador, Peru and Venezuela attended the Congress, and adopted a series of resolutions committing themselves to support child survival and development programmes. The event, sponsored by the Latin American and Caribbean Regional Office of UNICEF, was especially important in that it assembled politically divergent labour representatives, and it involved the health ministries of the five Andean countries. The occasion underscored the transcendence of child survival and development over partisan political concerns. The Bolivian Central Labour Union went on to declare 1990 as the Year for Mobilization for the Rights of the Child, and pledged to support the legislature in ratifying the Convention.

In November 1988, the National Bishop's Conference held its annual meeting in Cochabamba, and UNICEF was invited to speak on children's issues. The Conference endorsed a plan for cooperation with UNICEF. An agreement was signed in June 1989 formalizing UNICEF collaboration with SENPAS and CARITAS (including their 4,000 Mothers' Clubs). The cooperative effort also covered women's issues, and UNICEF supported a mobilization campaign for women's rights with the social movement of SENPAS, entitled: "I am also a person". One outcome of the campaign was Bolivia's ratification on 11 October 1989 of the Convention Against All Forms of Discrimination Against Women.

In May 1990, the Ministry of Health and UNICEF jointly sponsored a four-day workshop for the Federation of Journalists on the role of the mass media in child survival. Journalists across the country were invited to discuss the National Plan for Child Survival and Development and to examine their potential role in its implementation. Not surprisingly, it was agreed that the problems facing children were newsworthy themes, and that the media had a responsibility to monitor and report on the situation of children in Bolivia. These events occurred against the backdrop of a sustained advocacy and communications effort through various media.

Workshops, conferences and official gatherings have a ceremonial aspect in Bolivia. Speeches are required to open and close such occasions and UNICEF is frequently offered the opportunity to publicize the situation of children. These events are generally well covered by the press. To maintain a high public profile for children, the UNICEF office in La Paz has produced several short videos and television and radio spots on the situation of children, and it issues a regular flow of information on global and national events affecting children.

To maintain a profile for children, UNICEF issues a flow of information on global and national trends affecting children.

Studies and publications

The situation of children in Bolivia has been documented and publicized. In 1988, as part of the preparation of the country programme, UNICEF supported a Ministry of Planning publication entitled *Los Grupos Vulnerables en las Economías en*

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Desarrollo, El Caso Boliviano: Análisis de la Situación del Niño y la Mujer, (Vulnerable Groups in Developing Economies, The Bolivian Case: Analysis of the Situation of Children and Women). The document analyses the impediments to child survival and development and to women's progress, placing special emphasis on the political and economic environment of the country.

The analysis of the situation of children was complemented by the publication in 1989 of the book *Para Comprender las Culturas Rurales en Bolivia* (Understanding Rural Cultures in Bolivia), produced by the Ministry of Education and Culture, the Centre for Rural Studies and Promotion, and UNICEF. While the situation analysis concentrated on socio-economic and demographic variables, the second study examined the situation of children in terms of the anthropological, cultural and linguistic characteristics of the country. Taken together, these publications constitute a profound analysis of the situation of children and women.

A third study has been published on the situation of children in especially difficult circumstances. This study assesses the situation of street children, working children and abandoned and abused children. It analyses the causes of these problems and points to specific solutions. The study uses the Convention on the Rights of the Child as the framework for analysis, since children's rights in Bolivia have been clearly defined in the terms of the Convention, and since these children are most vulnerable and their rights most frequently violated. The study represents an important step in systematically reviewing the extent to which the principles of children's rights, as set forth in the Convention, are respected in Bolivia.

Future directions: the Convention and the programme

Bolivia's ratification of the Convention on the Rights of the Child was the result of successful advocacy. Such successes, however, create expectations and much is now expected of UNICEF and its partners. The implementation of the Convention implies effective measures to reduce infant and under-five mortality, to improve the nutritional status of children, to improve the educational opportunities and performance of children and to regularize the situation of children in especially difficult circumstances. In short, attainment of the standards set forth in the Convention are objectives which should be reflected in the UNICEF-supported country programme.

The present country programme (1989–1994) proposes a balanced attack on the immediate and underlying causes of young child death and poor development, with special emphasis on the reduction of mortality, improved nutrition, education, specific interventions for children in difficult circumstances and the development of social policy. These themes are addressed in national level programmes and through the area-based PROANDES programme, which concentrates on the needs of children in the poorest areas of Cochabamba and Potosi. All programmes depend heavily on strategies for social communication and community mobilization.

The country programme is presently in its third year of implementation, and the new country programme will be submitted to the Executive Board's 1993 session. Bolivia's ratification of the Convention will have a major impact on the preparation of this new programme, beginning with the situation analysis. It will also affect the framework for the implementation, monitoring and evaluation of the present programme.

Bolivia's ratification of the Convention will have a major impact on the new country programme

The Situation Analysis

A good situation analysis requires both normative positions (for example, the child has the inherent right to life, or the present rate of infant mortality is unacceptably high) and a conceptual framework. The Convention, as a statement of children's rights, provides a basis for both.

Normative positions are necessary as a point of departure, and have powerful potential for political advocacy. If it is not agreed that the child has the inherent right to life, or that the infant mortality rate is too high, there is little effective basis for action. Similarly, a conceptual framework establishes the parameters for analysis. If a theme is included within the conceptual framework, it merits attention; if it is not, it may be discounted in the analysis.

Recent situation analyses (such as those prepared for Tanzania in 1984 and for Ethiopia in 1988) have utilized a conceptual framework based on causal models that seek to answer the question: why do children die? These models analyse diverse factors as immediate, underlying and basic causes of young child death. One advantage of this type of analysis is that it ensures a more integrated approach to the problems of children. Another is that it presents the programme planner with a series of relatively clear choices for resource allocation. Direct actions may be taken against the immediate causes of mortality: oral rehydration therapy to

combat diarrhoeal dehydration, and the promotion of immunization against communicable disease.

These are correct choices in many situations of very high under-five mortality, where child deaths can and must be dramatically reduced. The causal analysis will also show, however, that a series of underlying causes of mortality must be removed if the direct interventions are not to be repeated *ad infinitum*. These "causes of causes" of young child death are more intractable, generally require greater investment and yield results only over a relatively long period of time. Improving the education of women is one example.

While the Convention applies to all children the reality of most cultures is that girls are discriminated against in many ways

The principles of children's rights contained in the Convention can be integrated into such an analysis. If the Convention's holistic approach to children's well-being is to be respected, then all of its elements must be reflected in the situation analysis. This does not imply, however, that causal models must be established for each of the principles articulated in the Convention. As the analysis is undertaken, it will become clear that, for a given country, some principles will be perceived as more important than others. In Bolivia, the number of children who die before the age of five is certainly greater than those involved in illegal drug use. In other countries, the numbers of children affected by armed conflict will give that issue priority.

If the rights expressed in the Convention can be divided into three themes, a situation analysis might be logically divided into three sections: child survival and development; child protection; and child participation. However, there are two areas in which the UNICEF situation analysis must go beyond the scope of the Convention: one is the role and situation of women in society, and the second is the special situation of the girl child. While the Convention applies to all children without exception, and without respect to gender, the reality of many, if not most, cultures is that girls are discriminated against in a variety of ways. A thorough situation analysis must take this into account and must show the extent to which discrimination, sexual or otherwise, does exist (i.e., whether Article 2 of the Convention is respected).

The situation analysis is crucial in the planning process, but it is also an important advocacy tool. It should be used to establish children's well-being as a basic indicator of development. An improvement in the situation of children is evidence of progress; a stagnant or deteriorating situation indicates the opposite. If the situation analysis is based, to a large extent, on the principles of the Convention, its advocacy impact will be enhanced. For a country like Bolivia that has ratified the Convention, the country may be said to be progressing or not, by standards of international law, to the extent that children enjoy rights set forth in the Convention.

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The planning phase

The Convention's most important impact on the planning phase of the programme cycle may be in the selection of targets. While it is a guide to the issues for consideration in the situation analysis, it serves, in turn, as a guide to those actions which warrant priority attention. In the planning phase, as priorities are established and agreed upon, and as programmes and projects are developed, measurable targets within agreed time frames are essential.

In UNICEF this process is common practice for those rights which pertain most directly to child survival and development, but for most UNICEF staff members, the areas of participation and, to a lesser extent, protection remain uncharted territory. It will be important to develop indicators for measuring progress (or lack thereof) in the implementation of the principles pertaining to protection and participation. This is not a job for UNICEF to undertake single-handedly since other organizations and groups have highly relevant expertise. But it is an issue which UNICEF cannot afford to ignore.

A starting point for UNICEF action

Bolivia's ratification of the Convention occurred in mid-cycle of the country programme. The ratification will not change programme priorities which, in the Bolivian context, already reflect the most important problems facing children. But it does have implications, particularly on the kind of partnerships which UNICEF must strengthen and expand in order to be part of a national alliance for children's rights. UNICEF will also have to consider action to promote children's rights in areas not presently included in the country programme.

The ratification of the Convention has funding implications for UNICEF since national expectations have been raised and new opportunities for action have arisen. The needs of children in Bolivia are substantial and the enjoyment of their rights will depend on the extent to which the Government and its partners in development respond through appropriate social policies, the reallocation of resources, legislation, administrative reforms and the promotion of children's rights as an issue of national priority.

A number of detailed recommendations were developed in connection with the preparation of this case study in addition to those included here. (Further information is available from UNICEF's office in La Paz, Bolivia.)

Recommendations

- Sustained efforts are needed on the part of the Legislative Commission to complete work on the proposed Code for Children and Youth. The Code will update the one enacted in 1972, strengthening its protective aspects, particularly with respect to children in difficult circumstances. UNICEF advocacy for the new Code emphasizes that "it is not a question of protecting society from street children, but of protecting children from society". (Convention Articles 2, 3, 11, 19, 20, 32, 34 and 40, among others, apply.)
- In order to promote the vital goal of child survival, it is important that the Ministry of Health recognize the significant role that all partners can play in achieving this end, and accept their support when it is given without political motives. While the Bolivian Central Labour Union (COB) and numerous NGOs may oppose aspects of Government policy, they clearly do not question that of child survival. The Ministry's proposal for administrative decentralization, which would improve its implementation capability, should be prioritized. (Convention Articles 6, 24, and 27 apply.)
- It is recommended that the Ministry of Education continue and expand the pilot work begun on multigrade primary education and bilingual primary education. Steps should also be taken to activate the proposed inter-ministerial Commission on Educational Reform. (Convention Articles 28, 29, 31, and 30 apply.)
- It is appropriate for the Ministry of Planning to provide full political support to the Undersecretary for Social Policy and his office in their efforts to establish a socio-economic policy in favour of children. (Numerous Convention articles apply, directly and indirectly.)
- Increased attention should be given to training women in CSD themes, with the participation of the Ministry of Agriculture and Rural Affairs in organizing training programmes. (Numerous Convention articles apply.)
- Continued efforts towards professionalization by the National Council for Solidarity and Social Development and full collaboration with the national and regional coordinators for chil-

"It is not a question of protecting society from street children, but of protecting children from society"

dren representing NGOs would be of great benefit to the Council's important work in projects for children in especially difficult circumstances. (Convention Articles 4, 19, 21, and 32, among others, apply.)

- It is recommended that proposals for the employment of military medical and health personnel in civilian care be implemented at an early date. (Convention Article 24 applies.)
- It is important that the in-service training of the National Police on children's rights issues (and particularly on the protection of children) be continued, and inserted into the academy training curriculum. (Numerous Convention articles apply.)

Inter-agency cooperation

All development agencies whose activities have an impact on the situation of children, or can contribute to the enjoyment of their rights, have an obligation to support governments in the implementation of the Convention. In this regard the United Nations family of agencies has a special responsibility, and UNICEF should strive, within the framework of inter-agency cooperation, to ensure that other agencies understand the implications of Article 45 of the Convention on implementation and international cooperation.

The United Nations Development Programme has recently expressed concern to the Government about the imbalance in public investment between the economic sector and the social sector. Agencies such as the World Bank and the Inter-American Development Bank, whose evolving policies are giving greater priority to health and to women, should be encouraged to continue in this vein. The UNICEF office in Bolivia has had some success in convincing major donors to seek new approaches in their development cooperation in order to give greater shares of their development funds to health care and child survival. More efforts of this nature are needed, however, if children are to become a first priority in Bolivia's development.

Actions to further child rights

In the context of the World Summit for Children, the UNICEF office in Bolivia made a series of suggestions on ways in which the President could help ensure the implementation of children's rights in Bolivia. The following proposals were made:

- To undertake a systematic analysis of the situation of children and women in Bolivia. The drafters of the National Plan for Child Survival, Development and Maternal Health have prepared an impressive assessment of infant and maternal mortality in the country, but this could be further developed into a thorough analysis of the problems facing Bolivian children and women, and a comprehensive national policy for social development. The analysis should be based on the principles of the Convention on the Rights of the Child.
- To review present patterns of fiscal allocation in view of national priorities. It is estimated

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that, in 1986, the Government of Bolivia spent the equivalent of 2.4 per cent of the gross national product (GNP) on defence, as opposed to 0.4 per cent on health. That is, military spending is six times greater than expenditure on health. The ratio of military personnel to physicians is 6.7 to 1.

- To reconsider public investment of international assistance. Within the economic sector, relatively little is allocated for the poorest areas of the country and the amount of international assistance earmarked for the social sector is negligible.
- To revise spending patterns within the social sector. Between 90 and 95 per cent of the budgets of the Ministries of Health and Education go to salaries. The improvement, expansion and development of services is underfunded. The Government is largely dependent on international assistance for such expenditure.
- To amplify the mother and child theme to include women's rights. Support should be given to the Women's Commission in the legislature to promote implementation of the Convention Against All Forms of Discrimination Against Women.
- To take every opportunity to strengthen the alliance for children. In promoting children's rights, there are roles for various governmental institutions (including the military and the national police) and for the Church, national and international non-governmental organizations, the labour unions, the business community, service organizations, peasant and community organizations, and the print and broadcast media. Issues pertaining to children should be kept above partisan concerns and on the national agenda, by maintaining the interest of groups with very diverse points of view.

Conclusion

The ratification of the Convention on the Rights of the Child in Bolivia is the result of successful advocacy. The cost of this specific effort is quantifiable, but the cost of implementation cannot be separated from the overall country programme since children's rights is not a line item. The application of the principles of the Convention permeates all aspects of UNICEF activities in Bolivia. It is the framework for analysis, the standard against which objectives are being set and achievements measured. In some ways, the ratification of the Convention simplifies the programming process. It is a guide to standards, a framework for decision making. Political will has been expressed. For UNICEF, the fundamental task remains unchanged: reduce child death, improve child development, participation and protection, only more so.

The ratification of the Convention simplifies programming. It is a guide to standards, a framework for decision making

KENYA: THE CONVENTION AS A FRAMEWORK FOR COOPERATION

BY BAQUER NAMAZI AND GERALDINE SICOLA

THE attainment of child rights goals in Kenya should be viewed within the context of the national development plans and programmes of the country in the post-independence period.

The Government of Kenya has consistently aimed to eradicate poverty, illiteracy and disease. These were the key elements of an important "Sessional Paper" of 1965 on "African Socialism and its Application to Planning in Kenya", and the main policy objectives throughout subsequent development plans.

Kenyan development and the child

During the first decade after independence (1963–1973), Kenya experienced rapid economic growth at an average of 7.9 per cent per year. During this period employment expanded, and incomes increased accordingly. The Government expanded educational facilities rapidly to meet the demand for skilled people and to strive for the eradication of illiteracy. Health was also assigned high priority and the health infrastructure developed quickly. The provision of free medical services was a major goal at that time.

During the second decade, 1973–1983, economic conditions deteriorated. Kenya's import substitution and industrialization strategy reached its limits. The industrialization strategy was supported by resource transfers from agriculture with the result that the agricultural sector was weakened. The international impact of increased oil prices and the unfavourable terms of trade for agricultural products dealt a severe blow to the economy. It became increasingly necessary to borrow from abroad, heralding the advent of the external debt problem, exacerbated by the declining value of Kenya's currency.

The current gross domestic product (GDP) growth rate is below 5 per cent per year and is eroded by the rapid annual population growth rate of 3.8 per cent. Per capita incomes have declined for most of the last two decades. These adverse economic developments translate into increasing difficulties in the provision of health, education and other social services. The Government has introduced user fees and service charges for many social services, as part of the structural adjustment programmes. The Ministry of Health, with support from UNICEF and WHO, is introducing community-based primary health care on the lines of the Bamako Initiative, drawing on the traditional *Harambee* movement. While the needs of the poor and disadvantaged families are being addressed by the communities, the Government needs to work out a clear operational strategy to ensure that cost-

WHO IS A CHILD?

The Convention defines the child as ". . . every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier" (Article 1).

Under Kenyan law the Age of Majority Act (Cap. 33) sets the age of majority at 18 years. Other statutes, however, define the child differently. The Children and Young Persons Act states that a child is a person under 14 years of age; 14 to 16 year olds are juveniles and 16 to 18 year olds are young persons. In the Penal Code, a person under 12 years of age is presumed to have no responsibility for a criminal offence. The Penal Code also sets the statutory age of consent to sexual relationships at 14 years. The Employment Act defines a child as a person under 16 years of age. The Matrimonial Causes Act defines "African" children as girls below 13 years and boys below 16 years. All other ethnic groups are considered children if they are unmarried and below the age of majority. This Act, therefore, discriminates among children by sex and race.

For purposes of marriage, the definition of the child is even more varied. Among African groups, in the more than 40 ethnic communities, marriageable age under customary law is attained through initiation to adulthood at diverse ages. For Muslims, following Islamic Law, qualification for marriage is attained with puberty. The Hindu Marriage and Divorce Act defines the marriageable age for girls as 16 years of age, while a boy qualifies at 18 years. The Marriage Act allows marriage for both sexes, with parental consent, at 16 years.

This multiplicity of definitions of the child in Kenyan laws and in the various communities results in numerous grounds for discrimination.

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sharing policies do not lead to further deterioration in the poor social service systems available to the disadvantaged families and communities.

In October 1989, the Ministry of Planning and National Development and UNICEF convened a meeting to consider the goals and strategies for children in the 1990s. The conclusions of this meeting form the basis of statements on attainable goals, referred to in this case study. In August 1990, a National Pre-Summit Strategy meeting was held involving senior government officials and non-governmental organizations in the preparation of a "Kenyan Perspective to the World Summit for Children", held in September. The deliberations and recommendations of that workshop are also reflected here.

Kenya's achievements in child health are the result of sustained government concern, supported by the provision of services

In this case study the rights of the child are defined within the framework of the United Nations Convention on the Rights of the Child. The standards of domestic law and the situation of children are evaluated against the standards of the Convention and in light of various economic, legislative and social constraints in Kenya. Strategies to ensure compliance with the Convention and to attain the goals for children in the 1990s are discussed with specific recommendations for the Government, non-governmental organizations, UNICEF and other international organizations.

The existing status of Child Rights

Right to survival and health

The main provision of the Convention on the Rights of the Child on child survival is the affirmation of the inherent right to life and survival (Article 6). Supportive provisions are the right to the highest level of health through access to health services (Article 24). Emphasis is placed on promotive and preventive health care, public health education, reduction of infant mortality and abolition of harmful traditional practices. Special care to handicapped children and preventive interventions are stipulated (Article 23). Protection of the survival of children in placement through periodic reviews is also provided for (Article 25).

In the laws of Kenya the child's inherent right to life is provided for in the Penal Code (Cap.69 Sec.25, Sub-sect.2), which stipulates that the sentence of death shall not be passed on a person who committed an offence while under 18 years of age. This is reinforced by sections in the Penal Code which prohibit, among other practices, death sentences for pregnant women.

The Public Health Act (Cap.242) provides for access to health services in Kenya. It gives people the right to preventive health care, to proper sanitation and housing, and it legislates on the protection

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Family responsibility and parental care

The primary responsibility for ensuring child survival and development rests with the family. The central role of the family is emphasized in the Convention and specific provisions are made for: parental guidance (Article 5), ensuring non-separation from parents (Article 9), family reunion (Article 10), the principle of common responsibilities of both parents (Article 18) and provision of an adequate standard of living (Article 27). Governments have a duty to create conditions which enable parents, extended families or communities to provide for their children.

The laws of Kenya make no specific provisions for parental care and duties. The Penal Code (Cap. 63, Sect. 216) makes it an offence for a "person who has the charge of another, who is not able to provide himself with the necessities of life, to fail to provide or withdraw from providing those necessities". The persons covered may be incapacitated by age or sickness.

of foodstuffs and public water supplies. Other specific preventive measures mentioned include malaria control and mandatory vaccination against smallpox for children below 15 years.

Some of Kenya's achievements in child health are the result of serious and sustained government concern for health, initially articulated in the 1965 Sessional Paper and in subsequent policy documents. This concern has been supported by concrete action in the provision of health services. The Ministry of Health, municipalities, missionary organizations and private entities have developed an extensive health infrastructure. There are 1,717 health institutions: 216 hospitals, 288 health centres and 1,213 dispensaries. In the rural areas, however, more than 50 per cent of more than half of all households must travel 4 kilometres or more to reach the nearest health facility.

An examination of the statistics indicates that infant and under-five mortality rates have been declining steadily. In 1950 the infant mortality rate (IMR) was 180 per thousand and the under-five mortality rate (U5MR) was 254 per thousand. By 1990 the IMR had declined to 74 per thousand while the U5MR was down to 89. Viewed against the global objectives of an IMR of 50 and a U5MR of 70 by the year 2000, the trends indicate that these targets are attainable in Kenya. Regional disparities, however, remain a major problem. For example, the U5MR can range from 220 in places such as South Nyanza to 85 in Central Province.

There is evidence to suggest that child mortality is influenced by the level of education of mothers and by other factors such as the mother's age, and by prenatal, perinatal and postnatal care. In approximately 36 per cent of deliveries, the lives of mother and child are at risk due to the lack of assistance from trained birth attendants.

The data available is inadequate for an analysis of the incidence of low birth weight and its specific causes, although it is thought to be high and it is known to be indicative of poor maternal health.

Immunization coverage has increased rapidly under Kenya's expanded programme on immunization. By 1990, excluding the capital city of Nairobi, a coverage survey showed that some 96 per cent of one-year-old children were fully immunized against DPT. Immunization against measles, however, is 76 per cent. It is important to note that there are geographic disparities, with coverage in some districts believed to be as low as 5 per cent.

In 1987 about 40 per cent of children aged 24–59 months were stunted, indicating chronic malnutrition. Over the period 1980–1986 an average of 32 per cent of children under five years old suffered from malnutrition. Again, the geographic disparities are significant and in some cases the situation has deteriorated since 1982.

Environmental factors affecting child health in Kenya include access to adequate shelter, safe drinking water and hygienic waste disposal. In 1987 it was estimated that 35 per cent of the population had access to safe drinking water, but only 20–25 per cent had access to water at the recommended distances.

Immunization coverage has increased rapidly. By 1990, 96 per cent of one-year-old children were fully immunized against DPT

The deterioration of Kenya's economic situation has threatened earlier achievements. The expansion of public health services lags behind rapid population growth, itself a result of the improved health services, without a corresponding change in reproductive behaviour. Health facilities are strained and trained personnel, drugs and other medical supplies are in short supply. As the Government cuts expenditures on health to contain budgetary deficits within manageable levels, health financing will become increasingly dependent on private sources.

In December 1989 user charges were intro-

duced in Government health centres and hospitals. While it is the Government's intention to give exemptions to those who cannot afford these charges, modalities for identifying these groups are not yet clear. These same economic realities will make attainment of the goal of water for all by the year 2000 virtually impossible, unless local community resources can be mobilized to complement external inputs.

Right to development and basic education

The Convention also recognizes the right of every child to at least primary education (Article 28), directed to the development of the child's personality, talents and mental and physical abilities. Particular emphasis is placed on fostering respect for basic human rights, the child's own cultural and national values and those of others (Article 29). The right to leisure, recreation and cultural activities is also provided for (Article 31). Education is the principal means to the enjoyment of these developmental rights.

The Education Act (Cap.211) is the legal framework for the development of education in Kenya. The Act provides for the establishment of schools suited to particular cultural groups and religions. Education is, however, not formally compulsory.

The Government of Kenya attaches considerable importance to education. The Sessional Paper of 1965 included illiteracy among the three social ills to be eliminated. Universal primary education was the goal. This policy coincided with the aspirations of Kenyans throughout the country. Thus cooperative efforts between the Government and private sector worked towards the expansion of the primary and secondary school infrastructure. *Harambee*, or "pulling together", became the rallying call for community participation in many development efforts, particularly in education.

Achievements in education are dramatic. The number of primary schools increased from 5,000 in 1963 to 14,288 in 1988.

The achievements in education have been dramatic. The number of primary schools increased from about 5,000 in 1963 to 14,288 in 1988. Over the same period the number of secondary schools multiplied almost fourteen times from about 200 to over 2,700. The growth in enrolment during the period was also remarkable: one million to 5,123,600 in primary schools, and about 36,000 to 540,192 in secondary schools.

Despite these achievements, the development of education has been extremely uneven among the various districts. The national primary school enrolment in 1987 was set at 94 per cent, but there are sharp yearly variations that require further analysis. Repetition, absenteeism and drop-out rates are high in many parts of the country.

Of the 41 administrative districts in Kenya, children in the arid and semi-arid areas have the least access to primary schools. Enrolment for 1987 in seven of these districts ranged from 14 per cent to 61 per cent. In all the districts, the enrolment of girls is lower and their drop-out rates are higher than those for boys.

Difficulties in maintaining the public financing of education, however, may jeopardize the progress already made towards guaranteeing all children access to education. Customary laws and traditional practices among certain groups add further complexities. The seasonal movements of nomadic people, early childhood marriages or the belief that educating girls is a wasted investment are some of the factors which deprive children of the right to education.

Significant corrective measures will need to be taken if universal primary education is to be attained by the year 2000.

Participation rights

Under the Convention, children have the right to express views on all matters or procedures affecting them, and to have those views taken into account, in accordance with the age and maturity of

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the child (Article 12). Other Convention provisions in the area of civil rights include freedom of expression (Article 13), freedom of thought, conscience and religion (Article 14), freedom of association (Article 15) and protection of privacy (Article 16).

In Kenya, the Adoption Act (Cap.143 Sec.7) stipulates that in making an adoption order, the Magistrate should give due consideration to the wishes of the child, in accordance with the age and understanding of the child. This is the only instance in which the provisions of Article 12 of the Convention are reflected in the laws of Kenya.

There are no provisions under Kenyan laws for the freedoms and participation rights of Articles 13, 14, 15 and 16 with respect to children. Section 5 of the Constitution, where these civil rights and freedoms are specified, omits mention of children as a group against which discrimination is prohibited. It cannot, therefore, be assumed that these rights are guaranteed for children. In addition to legislative inadequacies, there is little understanding of the meaning of these provisions of the Convention.

Right to protection

The Convention makes specific provisions for children in especially difficult circumstances, including working children and children who are victims of abuse and neglect. The Children and Young Persons Act addresses the issue of child protection in Kenya. It empowers the Children's Department to deal with cases of child abuse and neglect. Such children may be placed in foster care, on the recommendation of the juvenile court established under this Act. Children without families are provided for under the Adoption Act. The Kenya Red Cross Society Act empowers this Society to aid victims of war, famine and natural disasters. There are, however, no specific legal provisions for refugee children.

Protection against economic exploitation for children under 16 years of age is provided for in the Employment Act, Industrial Training Act and Regulation of Wages and Conditions of Employment Act. These laws are geared towards protecting children from exploitation and various job-related risks in the formal sector. But there is no protection for children working in domestic or agricultural settings, and the legislation is contradictory. The Penal Code (Section 217) and the Children and Young Persons Act (Section 21), on the implicit assumption that children under 16 will be working, stipulate that the child's employer is charged with the care of the child and specifically has the duty to provide clothing, food and other accessories. The "accessories" are not defined, and it cannot be assumed that essentials for the healthy development of the child are included.

There is no protection for children working in domestic or agricultural settings, and the legislation is contradictory

Studies of child labour in Kenya (P. Onyango 1989) show that there are many children working

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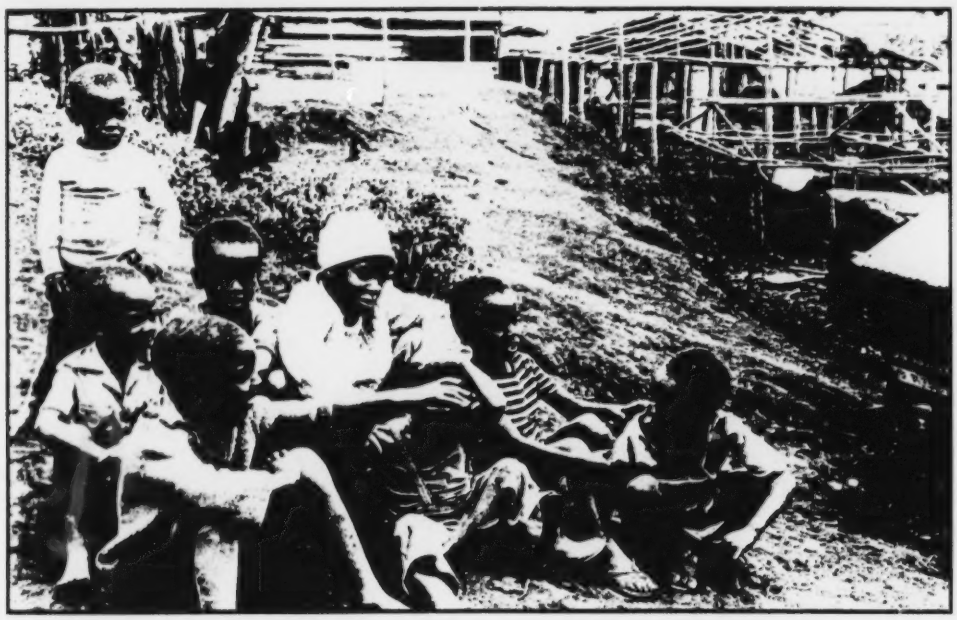

as domestic servants or in the agricultural sector. Child domestic workers tend to be girls aged six to 16 years of age. They work long hours, and frequently they are physically and sexually abused by their employers. Significant links exist between these experiences and juvenile delinquency, escape into street life or child prostitution. Children working in agriculture are often similarly exploited. In some areas, children employed in the lucrative *miraa* drug trade have abandoned school under pressure from their destitute families.

Protection from the use and abuse of drugs is found in the Children and Young Persons Act, which indicates that a child, or juvenile, is in need of protection or discipline if found buying, receiving or in possession of a dangerous drug. The Act provides that a child involved with drugs may be taken to an "approved" school or Borstal institution, or be released on bond to a parent or guardian. Several other statutes provide protection against drug abuse. The Penal Code protects the child from sexual exploitation, by making it a criminal act to lure girls or boys into prostitution or sexual acts. The Penal Code also protects children from abduction, slavery and any form of trafficking.

Child marriages and early pregnancy are common, leading to serious medical complications and loss of education

Children accused of criminal offences are protected from inhumane treatment by the Children and Young Persons Act. The Act provides for separate detention facilities for children. The interests of the child in court proceedings are represented by a guardian. Children have the right to confidentiality during a trial.

Health professionals, since 1972, have begun to promote awareness of the battered child syndrome in Kenya (Bwibo and Onyango 1986, Muita and Nduati 1989). Regularly, cases are reported of multiple fractures, needles and other foreign bodies in children, and burns, bites and bruises deliberately inflicted on children. Many abandoned or neglected children are brought to hospitals, while others die in house fires and other accidents. The press reported 50 cases of children murdered by their parents in the first six months of 1990.

A significant number of children are abandoned when their single mothers are arrested and jailed. Other children, under four years of age, may be held in remand homes with mothers who are awaiting trial, or who have been jailed. These children have been estimated to number about 2,200 per year (Muli-Musiime 1985). They are exposed to physical and psychological abuse in these congested and deprived environments.

There is also growing evidence of sexual abuse and exploitation of children for commercial purposes (Oruoch 1989). Child prostitution seems to be increasing in the various urban centres and child pornography, sex tourism and the international trafficking of children for sexual exploitation in

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UN Convention on the Rights of the Child vs Kenyan legislation

The major findings

Some of the inconsistencies and gaps in the Laws concern the following:

- Age of maturity and other ages stipulated by statutes for purposes of their operation
- Rights of survival, development, protection and participation are not adequately addressed
- Right of social security not provided
- Enjoyment of rights without gender discrimination
- Protection of children in situations of armed conflict
- International adoption
- Recognition of illegitimate and refugee children and those in especially difficult circumstances

Major recommendations for attaining Child Rights goals

- Incorporate action-oriented child rights goals into long-term development planning as an on-going process
- Enact a comprehensive Children's Act
- Establish a Children's Commission for monitoring and evaluation
- Ensure effective sensitization and advocacy
- Provide training and capacity building
- Restructure social services financing to provide "Safety Nets" to vulnerable groups
- Reduce disparities
- Improve management and efficiency of government services
- Encourage and support genuine participatory development

Key interventions for UNICEF

- Support all efforts to establish a Children's Commission
- Support the necessary research, law reform efforts and other requirements for enacting a comprehensive Children's Act
- Provide technical assistance for capacity building and advocacy
- Support research activities
- Place emphasis on disadvantaged groups in programming processes
- Include child rights dimensions in regular country situation analysis and programming

foreign countries is said to be on the rise.

In many communities in Kenya, for example among the pastoralists and coastal communities, child marriages and early pregnancy are common. These phenomena lead to serious medical complications and deaths among child mothers, and they deprive young girls of their right to education.

Institutional and policy processes requiring reform

The Juvenile Court of Kenya is one of the main enforcers of laws protecting children, but there is only one juvenile facility in Nairobi. Other courts throughout the rest of the country can act as juvenile courts hearing cases *in camera*. The Juvenile Court in Nairobi sits twice a week and hears two types of cases: those related to children brought in by the Children's Department, and those of children facing criminal charges. The adversarial nature of the legal system makes it impossible to address juvenile proceedings outside a trial setting and consequently many offences go unreported.

The Children's Department, which derives its mandate from the Children's and Young Persons' Act, is responsible for the extension of children's services throughout the country. Currently, the department operates 35 district offices, 10 approved schools and 10 juvenile remand homes. Its major functions include the investigation of cases of abuse, neglect, abandonment, delinquency and their causes, the establishment of statutory children's institutions or homes, and the rehabilitation

of children in need of care and discipline.

Although Nairobi has the largest number of cases handled by the department, it is clear that problems of delinquency, neglect, abuse and destitution exist equally in both the rural and urban areas (A. Mugambi 1988).

The Child Welfare Society of Kenya is a non-governmental organization gazetted by the Government as an approved society, for the purposes of implementing the provisions of the Children and Young Persons Act. It is mainly concerned with the welfare of children from birth to the age of 16 years who have been abused, neglected or abandoned for various reasons. The terms of reference of the children's officers employed by the Society are similar to those of the Children's Department Officers and they suffer the same limitations. The Society's main aim is to keep needy children at home, rather than separate them from their parents. When separation is inevitable, the Society attempts to organize foster placement or adoption.

The Kenyan chapter of the African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) has been active in disseminating information on the rights of the child and has been instrumental in the drafting of the African Charter on the Rights of the Child.

The National Conference on the Promotion and Implementation of the United Nations Convention on Children's Rights, held in December 1989, proposed the establishment of a National Alliance for Children. This Alliance of non-governmental organizations, formed early in 1990, is concerned with child rights and the promotion of the Convention through translation into Kiswahili, simplification for dissemination to children and other advocacy and public awareness campaigns, primarily through the mass media.

The Alliance, under the leadership of the Child Welfare Society, convened youth forums throughout the country to enable children and youth to discuss their rights and make recommendations, which were then incorporated in national goals and strategies and presented at the World Summit for Children.

Review of law and practice needed

Government institutions, such as juvenile courts, are inadequate and their personnel often lack the necessary training. The staff of many children's organizations, law enforcement officers and other agencies dealing with children have no concept of children's rights. The personnel of most of these organizations understand their role as providers of protection to the exclusion of the survival, development and participation of children.

There is need for the Government, through the Law Reform Commission, to undertake a comprehensive review of the existing legislation relating to child rights, in order to bring it into line with the spirit and purposes of the Convention and the specific needs of children in Kenya.

Ultimately, this review should result in the enactment of a comprehensive children's act, including a mechanism for supervising and monitoring its implementation. A committee or a National Children's Commission could be established at the highest policy level to monitor adherence to the Kenyan legislation as well as implementation of the Convention. Such a body could also be responsible for reviewing the policies behind the act and compliance with the African Charter on the Rights of the Child.

The staff of many organizations, law enforcement officers and agencies dealing with children have no concept of children's rights.

There is also an urgent need to develop an information resources network and a data bank to support the monitoring of programme implementation and progress towards achieving goals for children in the 1990s. Currently, the lack of information on IMR and U5MR, immunization coverage, nutritional status, and other socio-economic indicators, particularly for certain groups, makes it difficult to plan and implement appropriate interventions to ensure that children enjoy their "survival and development" rights. Similarly, little reliable data are available on the growing problems of children in especially difficult circumstances, including relatively new forms of abuse and neglect associated with urban lifestyles and urban poverty.

The need to study customary law and traditional practices that may conflict with the principles of the Convention and goals for children's rights is of paramount importance. The most effective ways of making the Convention widely known among social groups who adhere to principles of customary law should also be assessed.

The ratification of the Convention on the Rights of the Child or changes in national legislation will not, in themselves, ensure the attainment of children's rights goals. Extensive education and advocacy campaigns at various levels, throughout the country, will need to support the legal processes. The introduction of the Convention and children's rights issues into school curricula is one way of ensuring awareness among children and youth.

Advocacy efforts must continue with national leaders, policy makers, politicians, planners and

professional groups. These promotional activities need to involve an alliance of non-governmental organizations concerned with child welfare, and the proposed National Children's Commission, with UNICEF and other international support.

It has been noted that those responsible for children's well-being and protection lack adequate knowledge of the laws and of the situation of children, particularly those in especially difficult circumstances. Basic orientation and training programmes for such people must be an integral part of efforts to promote implementation of children's rights. The principles of the Convention and Kenyan laws must be widely known. Knowledge of the socio-economic situation of various communities is also essential before realistic projects can be designed, or before traditional customs harmful to children can be addressed.

Vulnerable groups including children will continue to require assistance as a social "safety net" to protect them from absolute poverty

Economic difficulties have made it necessary for the Government to reduce budgetary allocations to the social sectors, while encouraging private groups to provide these services. For some communities, this policy shift is likely to leave essential health and educational services beyond their reach. Vulnerable groups, including children and women, will continue to require public funds and other assistance as a social "safety net" to protect them from the consequences of absolute poverty. Improved efficiency, including better targetting, cost-effectiveness and equity in the provision of social services, must accompany the reallocation of resources in order to reduce disparities and sustain community support and participation.

The Convention as the framework for UNICEF's cooperation

For UNICEF, the United Nations Convention on the Rights of the Child is the framework for the child survival and development, protection and participation programme in Kenya. Programme cooperation during the period 1989–1990 primarily addressed the rights relating to the survival and development of children. The new programme has been broadened to include other aspects of children's rights. A component for social planning and capacity building, for example, advocates and supports the inclusion of human development as a goal of economic policies. One objective is to ensure that the well-being of children is a concrete component of the national development process and of economic recovery schemes.

The health, nutrition, population, and water and sanitation components aim to improve children's survival and their physical development.

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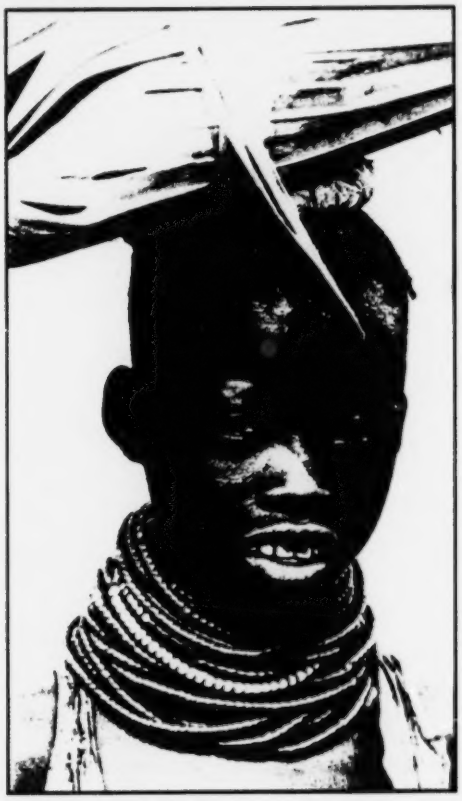

particularly where infant mortality rates remain extremely high. In six districts and three urban centres area-based projects have been initiated. Strengthening community capacity and involvement in the provision of health care, nutritional and population activities are major goals.

In the area of basic education, the emphasis is placed on early childhood development and achieving the goal of basic education for all. The special needs of the urban poor, girls and nomadic groups are being stressed. Greater emphasis is now being placed on finding appropriate ways to reduce geographic and gender disparities in Kenya.

The clear linkages between poverty, maternal health and educational level as determinants of child survival, development and protection have led to the design of programmes to help women improve their health, their access to education and to socio-economic resources. The success of programmes to promote children's rights and well-being is highly dependent on the extent to which women are enabled to participate in the development process.

The scope of UNICEF activities in Kenya is extensive and the targets are ambitious. While achievements in a number of areas have been impressive, a great deal remains to be done if the goals set for the 1990s are to be achieved – and if Kenyan children are to enjoy their rights as established in the Convention on the Rights of the Child.

Recommendations[1]

- It is recommended that the age of 18 years be set as the standard for defining who is a child and who should benefit, without discrimination, from the provisions of the Convention on the Rights of the Child.
- To facilitate achievement of children's rights to survival and to the "highest attainable standard of health" (Article 24), it is appropriate for the Ministry of Health to shift the emphasis from expensive hospital-based curative medical services to more decentralized, cost-effective and preventive health care. This strategy would facilitate further reduction of infant mortality, within existing fiscal constraints, and allow the poorest communities to benefit from access to preventive services.

  In light of the current economic situation, priority must be given to the poorest groups in society through community-based approaches to providing services in health and in water and environmental sanitation. Communities at all levels must be part of the decision-making process. Stringent measures must also be taken to correct inefficiencies and mismanagement in the provision of government services.

  In view of the disparities in access to basic services, district-level standards must be set, against which progress can be measured within five to seven years.
- It is recommended that primary education be made compulsory in Kenya. Reallocations in the national budget should allow for greater capital investments in education, particularly for the most disadvantaged communities. Furthermore, the implementation of "Education

The well-being of children should be a concrete component of the national development and economic recovery process

[1] *More detailed and additional recommendations were developed in connection with the preparation of this case study. Further information is available from UNICEF's office in Nairobi.*

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For All" objectives emphasize innovative and appropriate curricula for the most disadvantaged groups and those in especially difficult circumstances, including the urban poor. In recognition of increasing economic constraints, education goals must be prioritized, giving particular attention to the reduction in geographic and gender disparities. Greater emphasis on educating women and girls is critical.

Legislative amendments are also required to bring Kenyan law into line with the Convention in the areas of parental care and responsibility.

- UNICEF should support the preparation of a comprehensive Children's Act, by funding the necessary research and assisting the Kenyan Law Reform Commission and the African Network for the Prevention and Protection Against Child Abuse and Neglect (Kenya Chapter) to organize a national review workshop when the documentation, research and drafting of legislation have been completed.
- Legislative amendments are needed to allow children broadened participation in the decisions affecting their lives. Amendments are also required to include children in the constitutional provisions for civil rights and freedoms. Advocacy should emphasize the non-confrontational nature of participation and should focus on creating conditions conducive to building consensus on these issues.
- Children need more effective protection from economic and sexual exploitation, abuse, neglect and inappropriate judicial processes. The right laws exist in many cases, but the situation analysis indicates that there is limited capacity to enforce the laws.

  There is need to enact comprehensive juvenile legislation to eliminate the inconsistencies in existing statutes and to make the law preventive as well as protective. Campaigns are also needed to make the legal provisions better understood as tools for development. Communities need to be mobilized to take preventive, protective and rehabilitative measures based on an understanding of the needs of children. It is also recommended that penalties for crimes against children should be more stringent to have a greater deterrent effect. Emphasis should also be placed on rehabilitation, guidance and support, rather than on disciplinary measures for child offenders.
- Institutional capacities at all levels should be strengthened and appropriate training provided for the staff. Non-governmental agencies working directly with children, as well as others whose work could make a significant contribution to improving the situation of children, should be encouraged to work within the framework of national goals and encouraged to place greater emphasis on children's issues in the planning and implementation of their programmes.
- Financial and technical support should be provided for establishing the proposed National Children's Commission, and for strengthening local and national capacities for monitoring the implementation of children's rights provisions.
- UNICEF should develop specific responses to the urgent needs of children in the areas of protection and participation, particularly for children in especially difficult circumstances. This work should include research on the causes and conditions of children exposed to physical and psychological abuse, to neglect, abandonment and exploitation, in their homes, in correctional facilities and on the street.
- Increased attention should be given to especially disadvantaged groups, such as nomadic populations, girls and marginalized children in urban areas, among whom disparities are the greatest.
- The framework of the country situation analysis should be broadened to take account of the principles of the Convention on the Rights of the Child.

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BRAZIL: CHILDREN SPEARHEAD A MOVEMENT FOR CHANGE

BY ANTONIO CARLOS GOMES DA COSTA AND BARBARA SCHMIDT-RAHMER

AMONG the dramatic events which marked the decade of the 1980s in Brazil, policy and legal reforms benefiting children and the efforts to protect their rights must be among the most far-reaching and lasting Brazilian social changes to have taken place in recent times.

In 1990, at the end of a long process, the President signed into law the Children's and Adolescents' Act, approved by the National Congress. This new legislation overturned long-standing Brazilian and Latin American traditions in juvenile justice and child protection which had proved to be grossly ineffective and often counterproductive. The Act incorporates the principles of the UN Convention on the Rights of the Child and of other international legal instruments into Brazilian legislation. These reforms also enabled Brazil to be among the first countries to ratify the Convention.

As a result of these reforms, Brazil now has a broad-based, non-partisan social movement in defence of children's rights. While this movement and the process leading to legal reforms were triggered by the plight of children in especially difficult circumstances, these changes benefit all Brazilian children and adolescents.

The concept of children's rights has been legitimized and has been engraved in the minds and conscience of the majority of the Brazilian people. The law, which now provides legal safeguards for children's rights, has ceased to be an instrument of control and repression but has become, instead, a tool which groups in society can use to demand social action for the benefit of children or to monitor and prevent violations of children's rights.

Perhaps most importantly, these reforms empower people to demand basic services for all children, including primary health care, universal access to services such as immunization and basic education, and humane treatment and support for children in especially difficult circumstances.

UNICEF has accumulated a wealth of experience in the area of developing public policies for social change benefiting children. In particular, through the promotion of a "child survival and development revolution", UNICEF has acquired the skills and experience needed for advocacy, social mobilization and alliance-building. One of the most important aspects of the child survival and development movement was that it empowered people through knowledge and information.

The adoption of the Convention on the Rights of the Child opened a new front for UNICEF: it linked efforts to provide for the needs of children with the legal obligation to protect their rights. The Convention provides UNICEF with the opportunity to apply the skills and experience it has acquired over the past decade to new initiatives for promoting public awareness of children's rights and for stimulating legal reforms and effective social policies to enable all children to enjoy their rights.

In Brazil, important steps have been taken in this direction and these experiences can be adapted to the particular circumstances of different countries, as UNICEF becomes more involved in activities to assure for children their most fundamental right: "the right to have rights".

This paper documents the reform process that led to lasting and far-reaching legal and institutional change in Brazil, and it outlines the role of UNICEF in this process.

The background to reform

The movement for profound legal and institutional changes in the Brazilian juvenile justice and child services systems developed from the response to specific problems of children facing especially difficult circumstances.

These are the children who depend, most directly, on legal and institutional change if their situation is to improve. They are the victims of abuse at the hands of the police and in governmental institutions, and many of them have been unjustly deprived of their liberty. They are the most visible victims of children's rights violations. Their stories capture the attention of the media, and they are all too evident to the public as they roam the

The law has ceased to be an instrument of repression, and has become instead a tool to demand social action for children

streets in urban areas.

While the problems of children in these difficult and dangerous circumstances became the spearhead of the children's rights movement in Brazil, this campaign has also resulted in improved legislation, institutional reform, a permanent high-profile children's rights movement and vastly increased public and political attention to all children's issues.

The movement of the 1980s for legal and institutional reform was the latest in the long evolution of social policy concerning children in Brazil. During the 1960s and 1970s, public policy relating to children was based on two pieces of legislation drafted by the military regime: the National Policy for the Welfare of Minors (PNBEM) and the Minors' Code. These laws specifically targeted children and youth whose parents were "incapable of taking care of them" and who were considered to be in "irregular situations". The laws did not distinguish between needy, abandoned or delinquent children, who consequently became the targets of the juvenile justice system simply by being poor.

The 1980s movement for legal and institutional reform evolved out of a long history of social policy concerning children

Like the policies of earlier periods, the PNBEM was highly centralized and vertical, with uniform patterns of assistance imposed by the Federal Government on the whole country. The policy took an assistance-oriented and paternalistic approach to children's problems, supposedly to replace the earlier repressive and correctional approach which regarded abandoned and street children as threats to social order. This orientation had given rise to the Assistance Service to Minors (SAM) and its correctional facilities for young offenders throughout the country. Youth who were not regularly living with their families faced mandatory confinement to urban or rural vocational training schools.

While the PNBEM saw the marginalized child as a victim of deprivation with needs that had to be addressed, and established federal and state agencies to implement the new policy, the institutional culture of the old "Assistance Service" lived on unchanged through its personnel, the daily routines, its buildings and equipment. The correctional-repressive model of the past was never really overcome. The perverse cycle of compulsory institutionalization of children continued, sanctioned by the Minors' Code.

During the latter part of the 1960s, questions started to be raised about the effectiveness of institutionalization. Many institutions of the child welfare system became known as breeding grounds for crime and violence, as well as for the absence of an effective approach to preparing youth for productive adult lives. Some child welfare directors began to work with marginalized children within their own communities. The National Plan for the Integration of the Minor in the Community (PLIMEC) was drawn up in an attempt to prevent the phenomenon of street children. This Plan, however, was

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inflexible and remained vertical in its approach. It failed to respond to local needs and realities and lacked political legitimacy at the community level. The failure of this "PLIMEC" National Plan led to the reassessment, self-criticism and evaluations that were to be of critical importance in the 1980s.

By the 1970s, the Government was no longer the only actor in the social field. The military regime's actions to prevent people's participation in the formulation of public policy led to the formation of movements for autonomous social action, separate from and in opposition to government services. As the military loosened control in the late 1970s, groups formed independent neighbourhood associations to protest against the high cost of living, unemployment and the activities of official trade unions, or to develop an alternative neighbourhood press and to promote popular culture.

The Catholic Church played an important role in promoting the autonomous groups, based on the concepts of pastoral work and liberation theology emanating from Vatican II. In communities around the country, marginalized people questioned their living conditions and developed a new level of consciousness and organization. The children's rights movement of the 1980s had its roots in these developments.

Highlights of the Children's Rights campaign

Alternative services for street children

While the decade of the 1980s was disastrous economically, it brought Brazil closer to democracy. The children's rights movement and the reforms it brought about must be understood in the context of Brazil's evolution towards democracy and more participatory forms of governance and social organization.

In the early 1980s, increasing numbers of reform-minded officials within the national child welfare system realized that the existing policy was ineffective, stigmatizing, and had to be changed. This perception prompted a group of child welfare specialists from The National Child Welfare Foundation (FUNABEM), the Secretariat for Social Action and UNICEF to initiate the Alternative Services for Street Children Project.

The team started by identifying, documenting and publicizing successful local experiences in working with boys and girls in the streets and in poor communities. Most of these projects were run by non-governmental groups, many of which were linked to the Catholic Church. This project promoted exchanges among various groups, most of which were working in isolation. An innovative seminar and internship training strategy was developed. This strategy allowed participants to spend a week working in another project, learning from the experience of others and sharing ideas, knowledge and attitudes while developing friendships and a shared commitment to meeting the needs of street children.

Workshops, meetings, booklets and videos were prepared based on the wealth of experience which emerged from the seminar and internship programme. Through this process (known by the project team as "learning from those who are doing"), criteria emerged defining effective street children projects. In particular, projects had to address children's needs for education relevant to their own reality and enable them to earn necessary income, meet their need for recreation and affection, and help them to overcome the trauma of abuse and violence they have faced. These criteria became the guide for creating new programmes and improving existing ones.

Projects had to address children's needs for education, income, and recreation, and help them overcome the trauma of abuse and violence

During this period, the First Latin American Seminar on Community Alternatives for Assistance to Street Children was held in Brasilia in November 1984. Through the seminar, the "alternative assistance" concept became widely known and appreciated as a powerful expression of social change, made possible through popular participation. These community alternatives to institution-based child welfare programmes evolved into a critique of the old paternalistic and correctional-repressive model of the Minors' Code and the national child welfare policy.

The next step was to organize a network, linking these new initiatives into a broad national movement on behalf of street boys and girls. The goal was to give a cohesive identity to the groups involved and to enhance their political clout. Local commissions were organized, followed by state commissions which, in 1985, elected a national coordinator. The National Street Children's Movement was born in the same year that Brazil inaugurated its first civilian President after 21 years of military rule.

In May 1986, the Movement organized the First National Street Children Congress in Brasilia. The children and adolescents who attended had already participated in extensive discussions at local and state levels, and they understood the

political process. By the time they spoke at the Street Children Congress, their ability to articulate their concerns and demands was remarkable. This congress received massive media attention and propelled the street children issue and the National Movement into the limelight.

Although the children discussed a broad range of issues, the problem of violence emerged as their most urgent concern. They denounced the violation of their human rights through violence in the family, in the streets, by police, in the courts and in the child welfare institutions. They also denounced the violence of social and economic deprivation.

Following the Street Children Congress, it became clear to the organizations involved in the Street Children Project, including UNICEF, that the alternative non-governmental services were unable to provide care for the masses of children in need on the scale required. Profound political, legal and institutional reform was essential, on a national basis in order to change the entire child welfare system.

The children's urgent concern was violence: in the family, in the streets, by police, in the courts and in child welfare institutions.

The Child and the Constitution

The drafting of a new Constitution for Brazil presented a unique historical opportunity to rally support around children's rights and to insert guarantees for their protection into this new Constitution. In the process the State would be obliged to protect children's rights and respect their dignity, as part of Brazil's transition to democracy and the reconstruction of civil society.

To achieve the goal of including children's and adolescents' rights in the Constitution, it was necessary to build a campaign before the election of members of the Constituent Assembly, since candidates would have to be persuaded to assume a public commitment to this cause.

The immediate and tangible nature of the challenge of drafting the text for a constitutional amendment on children's rights, and of winning the support of the Constituent Assembly, mobilized a large number of local organizations and groups from the most diverse ideological backgrounds.

UNICEF played an important role in strengthening and broadening the alliance of institutions, and even provided technical support for the drafting process. The critical support of the mass media and the advertising industry was also enlisted. Working with key Brazilians in the media, UNICEF played a major role in designing the social communications campaign to link the children's rights movement and the drafting of the new Constitution.

In September 1986, a National Committee on the Child and the Constitution was created by an inter-ministerial decree. The Ministries of Education, Health, Social Welfare, Justice, Labour and Planning were represented on the Committee. UNICEF signed an agreement of technical cooperation with the Ministry of Education, thereby enabling the organization to accelerate its support for the process.

On the non-governmental side, a wide range of professional associations and local groups participated in the mobilization effort. The leaders were the National Front for the Defence of Children's Rights, the Youth Pastorate of the National Conference of Brazilian Bishops, and the National Street Children Movement.

The National Committee on the Child and the Constitution campaigned intensively to gain public support and to make their concerns politically important to members of the Constituent Assembly. The primary goal was to place Brazilian children high on the political agenda at this critical juncture in the country's history. National meetings, public debates in several States, media support, mass gatherings of children in front of the National Congress and in major cities, the distribution of pamphlets, meetings with individual mem-

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bers of the Constituent Assembly, public hearings, and petitions signed by 1.4 million Brazilian children and adolescents were all elements of the strategy to bring about the constitutional reforms to protect children's rights.

The private sector participated actively in the mobilization effort. Television, radio and the print media donated advertising space for campaign messages. Through the National Advertising Council, public relations firms contributed their services. Donations of services and media space were estimated to be worth US$ 1.8 million.

Debates and discussions held in schools all over Brazil and meetings with community associations and with local and state chapters of the three national movements mentioned above produced the substance of two constitutional amendments that were presented to the Constituent Assembly, with the endorsement of some 200,000 voters. These texts became the chapter in the Constitution on children's rights, which was adopted in the Constituent Assembly by a vote of 435 to eight.

UNICEF played a major role in the campaign to link the children's rights movement and the drafting of the new Constitution.

Article 227 in the new Constitution introduced the principles of the Convention on the Rights of the Child, one year before the Convention was actually adopted by the United Nations General Assembly. The draft text of the Convention was already well-known to Brazil's children's rights movement, and it inspired the campaign for constitutional protection of children's rights.

The introduction to the chapter on children's rights in the Constitution states:

"It is the duty of the family, society and the State to guarantee the child and the adolescent, with absolute priority, the rights to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom, family and social life, and to protect them from all forms of negligence, discrimination, exploitation, cruelty and oppression."

An Act for Children's and Adolescents' Rights

Inspired by their victory in the "Child and the Constitution" campaign, the children's rights movement launched its next and, perhaps, even more decisive effort: the drafting of legislation which would be consistent with the new Constitution, thereby revoking the Minors' Code and abolishing the old national child welfare policy. Once again, the lead was taken by the popular movements and non-governmental organizations, which had developed great political acumen and tactical experience through the "Child and the Constitu-

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tion" effort. This loose coalition had by this time formed a permanent National Non-governmental Forum for the Defence of Children's and Adolescents' Rights.

Despite considerable diversity and potential for conflict, the Forum held together since it managed to respect the identity, autonomy, and philosophy of its individual members. The members of the Forum took the lead in organizing seminars and debates around the country in order to solicit proposals for legislation. With the help of legal experts in juvenile justice, a draft bill was prepared reflecting concerns of community and grassroots movements. One member of the Senate and one member of the House sponsored the bill, and it was introduced simultaneously in both chambers of Congress.

The lead was taken by the non-governmental organizations, which had developed great political acumen and tactical experience

Many juvenile judges and officials of the national child welfare system resisted the proposals for reform. They worked together to present their own draft legislation. In order to overcome this resistance, the children's rights movement understood the need to broaden their alliance to involve influential members of the judiciary, including sympathetic juvenile judges, public prosecutors, attorneys and law professors.

The directors of the national child welfare system organized the National Forum of Managers of State Policies for Children and Adolescents, in response to the Non-governmental Forum. This more popular movement, however, gained the support of the Brazilian Bar Association, the Brazilian Pediatrics Society and other influential organizations, including the Brazilian Association of Toy Manufacturers.

Fortunately it was recognized that a major confrontation had to be avoided. UNICEF was able to play a quiet but very important networking role in building a broad alliance that enabled representatives from the public sector and judiciary to participate in the movement for change. Again, the mass media and the business sector, especially the advertising and toy industries, made significant contributions to the social communication campaign that helped spur the movement for legislative reforms.

After a year of intensive lobbying and debate, during which the draft bill was revised several times to accommodate different views and interests, the National Congress adopted the Children's and Adolescents' Act and the President signed it into law. It came into effect on Children's Day, 12 October 1990.

The difficult process has begun of implementing the profound institutional reforms mandated by the Act in the areas of law enforcement, juvenile justice and social services for children in especially difficult circumstances. Obviously, formidable challenges lie ahead. The National Non-governmental Forum intends to continue to play a leading role in guiding and coordinating non-governmental efforts to advance and monitor the implementation of the new legislation and the underlying reforms of the key institutions.

On the governmental side, the President nominated the Minister of Health to act as "Minister of the Child", to ensure that the actions of all ministries have a positive impact on children's well-being. At the World Summit for Children held in New York in September 1990, the President expressed his Government's firm commitment to include children's issues among its highest priorities. A bill regulating the creation of a National Council on the Child and the Adolescent, with equal participation from government and NGOs, was passed by Congress on 12 October 1991. This Council will have an important advisory and monitoring role in the development of child-related policies at the federal level.

The National Child Welfare Foundation has been replaced by the Brazilian Centre for the Child and Adolescent (CBIA), with a new mandate to act as political advocate for children, to be responsible

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for policy formulation and technical support at the federal level and to act as lead agency in guaranteeing the implementation of the Children's and Adolescents' Act. All responsibilities for operational activities have been delegated to state and local bodies.

The Ministry of Justice and CBIA, assisted by UNICEF and NGOs, have formulated a national plan to combat violence against children, and a special commission on children's rights violations has been established by the Federal Government.

The role of UNICEF in the struggle for Children's Rights

In Brazil the protection of children's rights is a process which has required profound changes in the law and public institutions, as well as efforts to improve the quality and coverage of services and social programmes, especially in the areas of basic health and education. UNICEF has been working with both governmental and non-governmental partners to bring about the civil reforms and social improvements necessary for children's well-being.

The situation analysis of children in Brazil is no longer simply a periodic exercise for the preparation of the UNICEF-supported country programme. It has become a permanent and continuing process which underpins the movement for legal and institutional reforms, as well as efforts to improve the health and social development of children. The UNICEF office in Brazil has promoted a situation analysis process with three components: studies, data and indicators on the situation of women and children; analysis and ongoing evaluation of policies and programmes for children, of both government and NGOs; and an analysis of the political and institutional context in which these programmes develop.

In the promotion of children's rights, the situation analysis process performs many functions: providing children's rights movements with specific, current and credible information on the conditions of children and thereby strengthening the legitimacy of their demands; making valid information available to advocacy groups and the media and mobilizing them around specific child-related issues; helping to translate general principles for the protection of children's rights into country-specific goals and targets, based on the country's social indicators; generating proposals for concrete action for protecting children's rights through effective policies; identifying programme opportunities and allies; and contributing to the development of tools for monitoring compliance with children's rights legislation and political commitments.

In order to fulfil these functions, the situation analysis must take several different forms and must result in diversified products: data banks and technical reports to be used by researchers and technical personnel in and out of government; concise and focused reports for advocacy with legislators and policy makers; material for use by the media; and simplified materials, presented in an attractive didactic form, for grassroots groups and movements to use with their constituents.

UNICEF has focused on helping Brazilian institutions build their own situation-analysis capacity. For example, there is a long-standing programme of cooperation in which UNICEF has been working with the Statistical Office and Planning Institute of the Federal Government to establish a continuous system for monitoring child-related indicators, using data from the annual National Household Survey, and to produce a series of statistical profiles on children. UNICEF has also encouraged Brazilian universities and research institutes to undertake studies and organize extension programmes on children's issues. Several universities now offer inter-disciplinary child studies programmes, and their researchers are providing technical support to action and advocacy programmes.

Universities have undertaken two evaluations of promising public policy initiatives dealing with children in especially difficult circumstances and have supported surveys on the health, nutrition and socio-economic status of young children in two north-eastern States. Data from the various studies and surveys have been shared with the media, social movements and action groups to support their advocacy efforts on children's rights. Action guides for local government and NGOs have been prepared, presenting an analysis of Brazil's Constitution and its implications for children, and providing guidance on incorporating constitutional principles into legislation and policy at the municipal level.

The situation analysis of children in Brazil has become a process which underpins the movement for legal and institutional reform

As emphasized earlier, these efforts to build national capacity to analyse the situation of children aim to place children's concerns high on the political and public agendas. Accordingly, capacity building focuses as much on the use of information as on its production. Strengthening capacities to advocate and effectively promote policies and programmes to benefit children is a key challenge.

In early 1990, the Planning Institute and

UNICEF jointly published a concise and readable situation analysis on Brazilian children, with a set of concrete action proposals and targets, entitled *The Brazilian Child: What to Do?*. The booklet was made available to the President-elect and his transition team, as well as to decision-makers and NGOs at different levels.

Alliances and social mobilization

UNICEF supported Brazil's children's rights struggle by helping to mobilize the support of various groups which would not normally have worked together, and in helping to preserve the non-partisan character of the coalition. UNICEF negotiated the support of the private sector and the mass media and assisted in planning and organizing events and activities to promote the cause of children, including the successful social communications campaign.

Children's issues are emphasized in the news, through documentaries, on talk shows, and in public service messages

To facilitate its role in networking and alliance-building, UNICEF engaged a former state-level official of the child welfare agency, who had been a promoter of reform within the system. This UNICEF National Officer had experience in government, a strong conceptual and technical background, a network of contacts in and out of government, and enjoyed the trust of public sector officials, people's movements and NGOs. Other professionals with similar backgrounds have worked with UNICEF as consultants at strategic moments.

The greatest challenge was that of keeping the broad and diverse alliance together and united around its common goal and to avoid partisan debates. Aware of the delicacy of this political effort, UNICEF remained behind the scenes, leaving the political advocacy to Brazilian institutions and movements. Public UNICEF statements were of a technical nature, and its advocacy for children was based on international instruments and its cooperation agreements with the Government.

UNICEF helped mobilize the important support of the mass media, the National Advertising Council and the Toy Manufacturers' Association. The level of media coverage of children's issues was unprecedented during the Child and Constitution "campaign". The public awareness and fund-raising drive of the Globo television network, called "Child and Hope", an annual event since 1986, has provided an important channel for promoting children's rights issues in the broadest sense, with strong emphasis on problems of infant mortality, child health and poverty. During a one-week period, children's issues are emphasized in the news, through documentaries, on talk shows, entertainment programmes and in public service messages. These programmes reach 60-80 million Brazilians, a truly extraordinary achievement.

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Support to action programmes

Throughout the advocacy process for legal and institutional reforms to promote and protect children's rights, UNICEF also maintained its support for community projects and public programmes benefiting children in especially difficult circumstances. This cooperation included funding and training covering some 300 small NGO and community projects, as well as technical and training support to promote reform within the public system for child services. UNICEF is currently participating in the establishment of a national distance-learning system which will be fundamental to state and local government efforts to implement the institutional and policy changes mandated by the new Children's and Adolescents' Act.

In the areas of health, nutrition, basic education, and women's development, also critical in relation to children's rights, UNICEF is maintaining its support through the country programme. A new programme on the child and the environment is underway. In its efforts to reinforce governmental action in these areas, UNICEF often refers to the legal obligations incurred under the article on children's rights in Brazil's Constitution and in the Children's and Adolescents' Act. Thus, the legal changes triggered originally by the problems of children in especially difficult circumstances now serve as the framework for promoting the rights of all children in Brazil, but are of special importance for those living in poverty.

Results of the reform process

Changes in juvenile justice

The Children's and Adolescents' Act abolished the notion of children in an "irregular situation" and the stigma it attached to all poor children. The new Act is based on the principle that children are citizens and, therefore, must enjoy basic rights, regardless of their social origin. The Act also recognizes that child-citizens must enjoy rights to special protection, consistent with their evolving physical and mental development. In keeping with the Constitution, the Act reaffirms that children should be given "absolute priority".

In the area of juvenile justice, Brazilian children now have the right to legal defence, and the power of juvenile judges has been significantly curtailed. The Act limits their authority to cases requiring legal action, such as cases of juvenile crime, questions of parental custody and adoption cases. Other cases requiring social rather than legal action, such as those involving children who live on the street and who have not broken the law, now have to be referred to a popularly elected Guardianship Council, composed of people with proven expertise and experience in working with children and children's rights.

Only children who have been caught in a criminal act need to be seen by the judge. Other children who are simply picked up on the street must be sent back to their families or referred to social programmes. The new law strictly limits instances in which children can be confined to correctional institutions. Even before it was formally passed, the Act and the Constitutional article on children's rights were used by the children's rights movement to stop an order, by the juvenile judge of Rio de Janeiro, to round up all children from the streets of that city.

Changes in institutional services

The Children's and Adolescents' Act makes it a legal obligation for children in especially difficult circumstances to be provided with medical and psycho-social assistance and to have access to legal and social protection. Boarding houses for children without families or who cannot return to their family are now expected to be small and to simulate a family environment. They must allow children to go to school with the children of their neighbourhoods and to participate in all other community activities.

During the decade preceding the passing of the Act, many child welfare agencies at the state level had already begun to modify their practices and to move away from the traditional institutional model of child care. In many cities, telephone hotline services were created to provide counselling and referral services, to allow citizens to report cases of child abuse and to give the public access to centres providing legal aid to children and youth. Some States retrained their military police forces in the principles of juvenile justice and the treatment to children, and four States established screening services within their juvenile justice systems. These services consist of a team with a social worker, a psychologist and a lawyer who interview children picked up by police, to determine whether to send them home, to refer them to a judge or to the social assistance programmes.

Telephone hotline services provide counselling and referral services allow citizens to report cases of child abuse and give access to legal aid

A permanent Children's Rights Movement

The emergence of a permanent, well-organized and politically mature children's rights movement is an important by-product of the children's rights campaign of the 1980s. This nation-wide movement, which has gained credibility and legitimacy at the highest levels, will continue to work towards assuring that the Children's and Adolescents' Act is implemented.

Groups and organizations dedicated primarily to providing services for children until the early 1980s are also now involved in advocacy for children, and several powerful networks have been formed between different organizations and groups. The Government has acknowledged that its citizens must actively participate, through NGOs, in efforts to promote children's rights, and increasingly such participation is being encouraged.

Councils on Children and Adolescents

The 1988 Constitution calls for greater participation by the public in formulating and monitoring public policy. The Children's and Adolescents' Act has established a mechanism for such participation by creating Councils on the Child and the Adolescent. Many municipalities have already established municipal councils on the child and the adolescent and their number is growing every day. Several state-level councils have also been formed. At the federal level, as mentioned earlier, a bill establishing a National Council has recently been passed by Congress.

In the urban centres where these councils have already been established, children's rights groups defending the interests of children in especially difficult circumstances are taking a leading role in denouncing children's rights violations and in demanding corrective action. In the rural areas of the country, where the major children's rights issues relate more to the absence or inadequacy of basic services, other NGOs are beginning to assume leadership in pushing for the creation of the councils. In the past, organizations such as the Child Pastorate Programme of the National Bishops' Conference, were dedicated exclusively to providing services for the poor. Armed with the Children's and Adolescents' Act, they are now making political demands for health services in poor neighbourhoods and rural areas, for day care centres, improved sanitation and for schools.

Pushed by public outcry, government has acknowledged the problem of violence against children, including summary execution

Using the law for people's empowerment

In the past, the law in Brazil was typically used as an instrument of control. The children's rights campaign has taught community groups to use the tools of democracy, by participating in the drafting of new laws to protect their rights. Today, all violators of children's rights can be taken to court. The law has become an instrument of people's empowerment. The concept of children's rights has been legitimized and has been shown to have very practical applications.

Children on the political agenda

Brazil's children's rights movement has helped to make children the subject of great public attention. Children's concerns have become issues of such high profile in Brazil that no policy maker or candidate for public office today can avoid a commitment to improving children's well-being. The creation of the Ministry of the Child in May 1990, and the subsequent nomination of the Minister of Health to act as Minister of the Child, is one indicator of the Government's commitment to children.

Pushed by strong public outcry and advocacy, government officials have acknowledged the problem of violence against children, including the

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problem of summary execution of children, a subject which was taboo until recently. The creation of a federal commission on violence against children, to be followed by similar commissions at the state level, and the formulation of a national plan to combat violence are indicators of the seriousness of the Government's concern for children and of its willingness to tackle even the most delicate and difficult problems of children's rights violations.

Implementing the Children's and Adolescents' Act, institutional reforms, changing the behaviour and attitudes of governmental officials and staff in law enforcement, juvenile justice and institutions for children will continue to be major challenges in the 1990s. These changes will take time, especially at state and local levels, and UNICEF will focus its cooperation on working sub-nationally on these issues.

Lessons from the Brazil case

- To promote children's rights effectively, a movement must be built around the specific children's rights issues that are perceived to be most urgent by the people of each country. In Brazil, these were the civil rights of children in especially difficult circumstances. In order to promote the implementation of the Convention on the Rights of the Child at national level, this process must be linked to the urgent national concerns of the society in question.
- The promotion of children's rights, particularly their civil rights, may require changes in national legislation. A country's ratification of the Convention on the Rights of the Child is not sufficient to provide children with legal protection. UNICEF can effectively support a process that leads to legal change, within the framework of its programme of cooperation with governments.
- The popular movement for children's rights and for legal and political reform arose from the broad process of democratization in Brazil. The movement seized a historical opportunity and occupied the political space made available for peoples' participation. UNICEF was able to play an important role in helping the movement to develop the advocacy and negotiating skills necessary for achieving its goals.
- The formation of a broad alliance, involving all sectors that work for children's well-being, was fundamental to the success of Brazil's children's rights movement. This alliance has to include community groups and key sectors of government, including the judiciary. Support from influential professional associations and the business sector is also important.
- To be effective, a children's rights movement has to transcend partisan political concerns and must focus on the best interests of children.
- In a country where mass media coverage is extensive, it can make a vital contribution to the children's rights movement.
- Any effort to promote children's rights should strive for broad public awareness and debate. Once the general public is concerned about children's rights, political leaders understand the importance of giving them priority.
- The principles of the Convention on the Rights of the Child can become instruments of people's empowerment when they are integrated into national legislation. When the Government is legally obligated to guarantee children's rights and to promote their well-being, people can use the law to legitimize their demands for better government services in health, education, nutrition, housing and social welfare, and for adequate legal protection of children.
- The situation analysis, as a permanent and continuing process, is an important strategic element in children's rights promotion. The situation analysis can be used to monitor compliance with children's rights principles, and the information generated provides a basis for children's rights advocacy and for policy and programme development.
- UNICEF can make an effective contribution to children's rights promotion by supporting continuing situation analysis, alliance-building, social mobilization and specific programmatic actions. These strategic elements should be mutually reinforcing.
- In supporting the processes of legal and political change for the protection of children's rights, UNICEF must take the backstage, playing a supporting, facilitating and catalyst role, while leaving the limelight to national institutions. This requires both diplomatic and technical skills and broadens the scope of traditional UNICEF programmes. It is like managing a campaign to elect children to the seat of highest national priority.

APPENDIX: GOALS FOR CHILDREN IN THE 1990S

THE following goals have been formulated through extensive consultation in various international fora attended by virtually all Governments, the relevant United Nations agencies including the World Health Organization (WHO), UNICEF, the United Nations Population Fund (UNFPA), The United Nations Educational, Scientific and Cultural Organization (UNESCO), The United Nations Development Programme (UNDP) and the International Bank for Reconstruction and Development (IBRD) and a large number of NGOs. These goals are recommended for implementation by all countries where they are applicable, with appropriate adaptation to the specific situation of each country in terms of phasing, standards, priorities and availability of resources, with respect for cultural, religious and social traditions. Additional goals that are particularly relevant to a country's specific situation should be added in its national plan of action.

I. Major goals for child survival, development and protection

(a) Between 1990 and the year 2000, reduction of infant and under-5 child mortality rate by one third or to 50 and 70 per 1,000 live births respectively, whichever is less;

(b) Between 1990 and the year 2000, reduction of maternal mortality rate by half;

(c) Between 1990 and the year 2000, reduction of severe and moderate malnutrition among under-5 children by half;

(d) Universal access to safe drinking water and to sanitary means of excreta disposal;

(e) By the year 2000, universal access to basic education and completion of primary education by at least 80 per cent of primary school-age children;

(f) Reduction of the adult illiteracy rate (the appropriate age group to be determined in each country) to at least half its 1990 level with emphasis on female literacy;

(g) Improved protection of children in especially difficult circumstances.

II: Supporting/sectoral goals

A. Women's health and education

(i) Special attention to the health and nutrition of the female child and to pregnant and lactating women;

(ii) Access by all couples to information and services to prevent pregnancies that are too early, too closely spaced, too late or too many;

(iii) Access by all pregnant women to pre-natal care, trained attendants during childbirth and referral facilities for high-risk pregnancies and obstetric emergencies;

(iv) Universal access to primary education with special emphasis for girls and accelerated literacy programmes for women.

B. Nutrition

(i) Reduction in severe, as well as moderate malnutrition among under-5 children by half of 1990 levels;

(ii) Reduction of the rate of low birth weight (2.5 kg or less) to less than 10 per cent;

(iii) Reduction of iron deficiency anaemia in women by one third of the 1990 levels;

(iv) Virtual elimination of iodine deficiency disorders;

(v) Virtual elimination of vitamin A deficiency and its consequences, including blindness;

(vi) Empowerment of all women to breast-feed their children exclusively for four to six months and to continue breast-feeding, with complementary food, well into the second year;

(vii) Growth promotion and its regular monitoring to be institutionalized in all countries by the end of the 1990s;

(viii) Dissemination of knowledge and supporting services to increase food production to ensure household food security.

C. Child health

(i) Global eradication of poliomyelitis by the year 2000;

(ii) Elimination of neonatal tetanus by 1995;

(iii) Reduction by 95 per cent in measles deaths and reduction by 90 per cent of measles cases compared to pre-immunization levels by 1995, as a major step to the global eradication of measles in the longer run;

(iv) Maintenance of a high level of immunization coverage (at least 90 per cent of children under one year of age by the year 2000) against diphtheria, pertussis, tetanus, measles, poliomyelitis, tuberculosis and against tetanus for women of child-bearing age;

(v) Reduction by 50 per cent in deaths due to diarrhoea in children under the age of five years and 25 per cent reduction in the diarrhoea incidence rate;

(vi) Reduction by one third in deaths due to acute respiratory infections in children under five years.

D. Water and sanitation

(i) Universal access to safe drinking water;

(ii) Universal access to sanitary means of excreta disposal;

(iii) Elimination of guinea-worm disease (dracunculiasis) by the year 2000.

E. Basic education

(i) Expansion of early childhood development activities, including appropriate low-cost family and community-based interventions;

(ii) Universal access to basic education, and achievement of primary education by at least 80 per cent of primary school-age children through formal schooling or non-formal education of comparable learning standard, with emphasis on reducing the current disparities between boys and girls;

(iii) Reduction of the adult illiteracy rate (the appropriate age group to be determined in each country) to at least half its 1990 level, with emphasis on female literacy;

(iv) Increased acquisition by individuals and families of the knowledge, skills and values required for better living, made available through all educational channels, including the mass media, other forms of modern and traditional communication and social action, with effectiveness measured in terms of behavioural change.

F. Children in difficult circumstances

Provide improved protection of children in especially difficult circumstances and tackle the root causes leading to such situations.

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CHILD RIGHTS

THE CONVENTION:
Child rights and UNICEF experience at the country level

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